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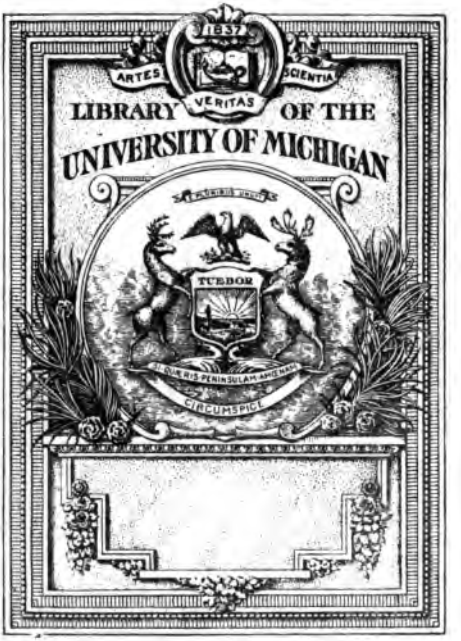
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THE
U. S. Government's Shame.

The Story of

The Great Lewis Case.

By Edwin C. Madden,
Third Assistant Postmaster General,
from July 1st, 1899, to March 22nd, 1907.

Price, 50 Cents.

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"As we cannot, without the risk of evils from which the imagination recoils, employ physical force as a check on misgovernment, it is evidently our wisdom to keep all the constitutional checks on misgovernment in the highest state of efficiency, to watch with jealousy the first beginnings of encroachment, and never to suffer irregularities, even when harmless in themselves, to pass unchallenged, lest they acquire the force of precedents."

Macauley.

INTRODUCTION.

Both a public and a private duty required the writing of this book. The story to be told is of frauds and immorality in the high official life of the Nation, appalling in dogged, persistent deviltry, and amazing because possible to occur in this country.

For some time past government officials have been exposing the iniquities of corporations, trusts and individuals. Iniquities of their own, many times worse, have long been concealed. This book will let some light into dark places, as it unfolds the plot and brings into public view the workings of what was probably a conspiracy and the greatest and boldest of the times. This tale is not, however, written in the spirit of an exposé: although it is unavoidable that it shall amount to that.

This book is likely to provoke an attack; but it will become a record for all time, and may be reviewed in connection with the statements and the proof in support of them from the responsible persons herein exposed; then, in the sober second thought, when both sides have been fairly heard in the open, and the smoke has cleared away, there will be a final judgment by the people.

No where in all the American history of crime and intrigue can be found a record of lawlessness and immorality so indefensible, so sinister and so singular as in this Lewis case. The writer does not undertake to show the motive, for that is not yet sufficiently disclosed to be recorded. This is simply a narrative of that which is known and has taken place. Indisputable proof of every material fact stated is supplied. Of necessity, dark secrets of state are opened up, in a tale of an administration of public business rotten with cruel injustice, deliberate wanton destruction of property, and frightful oppression.

The writer accuses no one; he states facts. If the facts themselves accuse, then those responsible for those facts are responsible for the accusations.

The officers who permitted or committed the acts recorded here and who are responsible for the malfeasance and the malpractice of it all, seem to rest secure in the belief that if brought into the light they may escape just punishment through the fiction of having exercised an administrative function merely, in which their conduct can be held as no worse than mistaken. If such be their only hazard, we are indeed in grave danger.

The story is not of one, but of a series of wrongs, one following on the heels of another in quick succession, and all woven into the warp and woof of a great fabric of crime.

The power of the Postmaster General and his subordinates in some respects is tremendous and absolute; and, when used in violence and oppression, it may be made as destructive as an eruption of Vesuvius. For years these offices have been held by men of honor, breadth and integrity, and the power and authority conferred upon them have not been abused, hence there was no complaint and no scandal; but when it came to pass that some of these high places were filled with unscrupulous men, men of no genuine sense of honor, or moral obligation, men wanting character fitness,—those positions became private stations in the hands of Benedict Arnolds and Judas Iscariots, and the power and authority held in trust to be exercised for the people permitted them, under the cloak of plausible administrative function, to execute the most wicked of offences in the name of law, because, being officials, their acts could be legally justified.

The chief characters in this drama are a Postmaster General, an Assistant Postmaster General, an Assistant Attorney General, a Postmaster of one of the largest cities and the Local Inspector force at that city; and a banker-publisher citizen residing and doing business within the jurisdiction of the Postmaster and the inspectors.

CHAPTER I.

"Man's inhumanity to man."

Mr. Lewis of St. Louis is no saint. He may be a devil. There are many who believe his is a master mind —that he is a constructive genius—a human dynamo; others say he is a dreamer, a shrewd, sharp schemer—an adventurer. Some would build him a monument; some few would imprison him. Between these extremes there are many who view him simply as a clever business man; others who regard his every move dishonest; while some pin their faith to him as the embodiment of truth and right, and look upon him as a public benefactor.

This man is the Hamlet of this play, but it is not the purpose of this work to prove him saint or sinner; whether he is holy or unholy; or whether the great business which he has built up and of which he is the head is sound or unsound; or whether it is a fraud or whether it is honest. This story has an altogether different purpose. It is founded on the theory that so far as the man is concerned he is simply human and made of the same sort of stuff as other human beings, with

some percent of error and some percent of virtue—neither completely good nor completely bad.

He is, however, an American citizen, and both he and his business should be judged by the same standards and by the same processes as others. If he has committed a crime, or has constructed an unlawful business, he should be dealt with according to the forms of law; but if he has done no wrong, then he should be allowed to pursue his way and conduct his business unmolested.

But truth is stranger than fiction and if what follows be the truth, and the evidence is furnished, this man's experience with the government caps all. It is perhaps without parallel in the recorded history of fact and has few mates in the flights of fiction.

We live in a country in which all men are regarded as equal before the law, and everyone charged is held to be innocent until proven guilty, with a Constitution guaranteeing an open, fair and speedy trial; but under the modern theory and practice of official authority by construction, and of the established fact of official censorship of private conduct, these Constitutional provisions appear to be out of date. This is a concrete case of the beneficent operation of the changed conditions. An unrestrained holocaust is not more terrible in effect.

For more than two years Lewis has been begging the officials for fair play, treatment like that given others, an application of the law to him and his business as

they apply it to the mass—that he be not singled out for destruction while many others, doing exactly as he is doing, are looked upon as committing no wrong and are unmolested. His efforts have been all in vain. A delegation of reputable citizens representing seventeen thousand business men of St. Louis journeyed to the White House to get his case before the Chief Magistrate, under the Constitutional guarantee of the right of petition; but they were turned back and refused audience. He has been indicted ten or a dozen times for alleged crimes, but it took two years to force the first indictment to trial against the government's own influence for delay of sinister purpose. Meanwhile his great business is made the subject of unremitting inquisition and the details of it are criticised in official documents printed in defiance of law and which place him in the light of a law breaker and a fraud stigmatized as "under indictment". His credit is destroyed. Millions are involved in his enterprise and it was all but ruined. The wonder is that it stood the siege so long, and that he, himself, was not a nervous wreck.

"Back to the Constitution," is a cry now heard in the land. A judge who has just sentenced a prominent criminal says solemnly that it is a message to all the people that law and order are supreme. But is it so? He says, too, that no man, however exalted his station, or how strong and powerful the political, social and

financial influences which surround him, is above the law. What then of this case?

Already Lewis has paid tribute of over half a million dollars to an unscrupulous tyranny of authority. That protection of the law, that order and that justice of which the judge spake, and that square deal for every man, which is the guarantee of the Constitution and of the politician when votes are needed, he cannot find. He knows that it is not true that no man is above the law. To him the phrases are an empty mockery, for his oppressors are above the law. When he applied to the courts to save his business from destruction, he found they could not interfere, because it was an executive matter beyond their reach. He asked that the cruel work of destruction be delayed until the court should decide his fate on the criminal charges brought, but that was refused. Meanwhile, industrious malice works overtime tearing down his business, one hand washing or supporting the other, as the need of the authorities might be in their work of demolition.

In such hearings as were given him, the spies and the officials who hounded him were his prosecutors, judge and jury and it was behind closed doors—in a star chamber. "I have not knowingly wronged any man or broken any law," he proclaimed, and he pleaded with the authorities to give him a chance to correct any thing they objected to. But no, that was asking too much.

Without warning, like an assassin from ambush, they dealt him a withering blow from the secret chamber.

Saith the learned judge: "In this country law, and order, and justice are supreme." Quoth the jester: "Oh, what fools these judges be!"

Whether this man Lewis be good or whether he be bad, we need not inquire. He is human and he is a citizen of the United States. Both he and his business are entitled to the protection of the country's laws, and to an application of the principles of fair play in governmental operations. That, for some inscrutable reason, he was not accorded. Single-handed he made a gallant fight against terrible odds for his legal rights. None were willing to assist, seeming to fear a like fate, through incurring the displeasure of the authorities. If in the end he be victorious a monument should be erected to him for the good he has done the whole country by dealing a crushing blow to the demon of official irresponsible tyranny, working in secret, disregarding all laws, ignoring every principle of justice, and unreviewable by any power, save the one to which it only has access.

CHAPTER II.

The Man and the Enterprises.

There were two Lewis enterprises. The first was a Publishing Company. Lewis says he started it in 1899 with a capital of $1.25. In 1905 it was valued at a million and a half dollars and for it there was as promising a future as any business enterprise in the world. It was earning then annually for its stockholders a quarter of million dollars. The publications were for women. It was the Lewis idea that they should be as good as they could be made and be sold at the lowest possible price. The larger one was *THE WOMAN'S MAGAZINE* and the other *THE WOMAN'S FARM JOURNAL;* both were monthlies and sold at a subscription price of 10c. a year. The combined circulation ran into millions, and there was not a city, town, village or hamlet in the United States without its quota of reading subscribers.

The second of the Lewis enterprises was the *PEOPLE'S UNITED STATES BANK.* The central idea of this bank was that of providing a means for the safe-keeping of money of persons remote from banking facilities. It would bring out of hiding the money of those

people, many of whom could not get to banks at all. In this bank they could deposit by mail. That it met a public need was fully demonstrated. In less than six months after it had been organized the money invested in capital and deposits amounted to upwards of three millions.

This bank had a novel certified check system, by the means of which its patrons would be greatly accommodated in making remittances. Each could have in his own possession, obviating the necessity of a trip to a bank, postoffice or express office, a form of check payable without cost anywhere in the United States, being drawn upon the five great money centers and upon banks associated with this People's Bank in the system of exchange. The associated banks were the Park National Bank, New York; the First National Bank, Chicago; the Bank of California, San Francisco; the Hibernian Trust Company, New Orleans; and the Scandinavian Bank, Seattle,—all staunch and powerful as any in the country.

The publishing plant is located just over the line of the city limits of St. Louis in a residence suburb. It is a stately, artistic structure. Just across the street is another building, modeled on the Egyptian style, originally intended to house the Bank. The section in which these buildings stand is known as University City. It is laid out and improved for suburban residences and is

well built up. This University City is also a Lewis idea and enterprise, but we need not dwell upon this since it does not figure largely in this case.

For some inscrutable reason this People's United States Bank and this Lewis Publishing Company were for two years—namely, from March 4, 1905, to March 4, 1907—(the period during which Mr. George B. Cortelyou was Postmaster General), an object of the most violent and continuous assaults by the postal authorities, and thereby hangs this tale.

The Bank was first attacked and destroyed. The onslaught on the Publishing Company was intended to be about simultaneous with that on the Bank, but was unsuccessful at first because of an unmanageable official in the Department at Washington.

Mr. Lewis is not an ordinary person. He is small of stature, rather frail but wiry. He may be anywhere between thirty-five and forty-five years of age, but if he said he were only twenty-five, you would not doubt him. His face is kindly, and in repose wears a sort of sad expression. There is something about the man that pleases and assures you. But it is when he is animated that the life that is in him shows up. When he speaks, he is frankness itself. One cannot escape the conviction that he is quite a man, and that an act of dishonor or injustice is not in him. When he tells the story of his great enterprises—the peoples' enterprises, he calls them

—and how they were built up and the struggle it was, you are involuntarily impressed that here is a man of great force of character and accomplishments. When he tells you of his enemies in the government service, who for some hidden reason have hounded him for years, and who, through the misuse of power, had all but destroyed him and his business, and how they worked unhindered in spite of all he could do, you are dismayed and awed at the brazenness and lawlessness of it all.

In his publications Lewis had the means of getting the case of his bank before his readers and they were coming to his aid. It was but a question of time when he would make the great body of them understand. Then came the second awful blow, the last act in the last hour of the Cortelyou administration,—like a bolt from a clear sky. The magazines were held up in the mails, suppressed by the imposition of a prohibitive tax. The job was done.

Of course, these officials proclaimed that what they were doing to this man and to his business was in the line of duty. No administrative act, however subversive of justice, tainted or corrupt, but some plausible excuse upon which to charge it is found.

The Lewis bank was a new idea, and the importance of it was immediately recognized. The certified check system would revolutionize the conditions of remitting

money. Perhaps this circumstance as much as any other is responsible for what happened.

It is related in some legend that in a far eastern country a native once discovered the secret of making malleable glass. Full of enthusiasm, he secured an audience with the reigning monarch and to him he exhibited his discovery. His Majesty was amazed. He pondered over it for a while and then declared that such an invention would revolutionize the world; it was supernatural; it was too much. He ordered the inventor instantly beheaded, and decreed that the secret should die with him. The world now has no malleable glass.

The postal authorities did not order the taking off of Lewis in just the same way as His Majesty did the malleable glass man, but what they did was sufficient. A more modern practice was resorted to, a postoffice fraud order did the work—the bank like the malleable glass is not. The express companies continue to distribute $24,000,000 dividends to the stockholders, and the postal establishment continues to tax for its service, first by direct charge for the orders as issued, and second by indirection in its draft upon the Treasury to make up a deficiency, the service not being self-supporting. The banks, too, continue to reap a harvest from the exchange draft system.

So it does not pay to be a genius, if the bent be in the direction of interfering with the "system." This

man Lewis was no doubt regarded as dangerous. If his bank was allowed to exist, others would follow the example. Nip it in the bud. The trick was turned by calling it a fraud. It is never dishonorable to cheat the people; and the easiest way is under the guise of serving them.

CHAPTER III.

Organization of the Postoffice Department.

The reader of this story will gain a much clearer understanding if prepared for it by a brief explanation of the functions and duties of the Postmaster General and his assistants; hence what follows in this chapter.

The Postoffice Establishment is the creation of Congress, under its constitutional authority, to establish postoffices and post roads. It is the largest single business organization in the world. It handles more money, and employs more people than any other on the face of the earth. Its employes are found in every city, town and hamlet and they traverse every road.

The purpose of the postal establishment is to furnish the people with a means of inter-communication, called mail service. It handles three kinds of matter—letters, printed matter and merchandise. Billions of separate pieces pass through the mails every year. The service is maintained by a direct tax upon those who use it, paid in postage, postoffice box rents, etc. But even he who does not use the service at all is compelled to contribute something to its support, through a payment out of the

public Treasury at Washington of millions every year to make up a deficiency—the direct tax falling short of meeting expenses each year from three to fifteen millions.

The money collected through the direct tax is not used to defray the cost of the service; it goes into the United States Treasury either actually or constructively. Every item of expense is appropriated for specially by Congress out of the Treasury in an act or law passed in advance for each fiscal year; so the postal authorities are limited in each item of expenditure to the allowances.

The headquarters of the United States Postal Establishment is at Washington, D. C. The general manager of the service is called the Postmaster General. In theory every act of every employe, even to the man who sells a postage stamp or who delivers a letter is an act of the Postmaster General. There are a great many postal laws; one of them fixes the duty and limits the power and authority of the Postmaster General. Congress is the supreme authority, and the United States Supreme Court has decided that every act of the Postmaster General, or of one of his subordinates, must be founded on some law. It follows, therefore, that the Postmaster General can have no authority or power beyond what the laws of Congress (which is the means by which the people control their own establishment)

give him; it follows also that he cannot lawfully empower or direct any subordinate to act in any capacity or to do anything he could not do himself.

At the headquarters in Washington the Postmaster General has something less than one thousand subordinates; mainly they are clerks. Four of these subordinates are assistant general managers, called Assistant Postmasters General. In order to facilitate the handling of the tremendous business of the whole establishment, each assistant is given certain definite branches to manage. In his particular field each assistant is supreme. There is no appeal from him except to the Postmaster General direct. No one assistant is over another. In the organization of the whole service the Postmaster General does not reserve to himself any part of the practical administration or management. The four assistants cover it all.

The First Assistant manages and decides, in the first instance, subject to the approval of the Postmaster General, and in certain cases of the President, all of the appointments in the field service—postmasters, clerks, carriers and others; and the allowances, salaries, and other expenses for the maintenance of the service in postoffices.

The Second Assistant manages the Railway Mail Service, including the appointments and expenses for

that service, the foreign mail service and the mail equipment—pouches, sacks, etc.

The Third Assistant manages the collection of the revenue through the issue of postage stamps; pays out of the Treasury any moneys appropriated by Congress for the service; classifies all the mail matter according to law, performing a quasi-judicial function by sitting in judgment on all disputed classification questions; the money order service; and the registered mail service.

The Fourth Assistant manages the Rural Free Delivery service; the postoffice supplies, except pouches, sacks, etc.; and the Dead Letter office.

In addition to these four Assistants there is attached to the Postoffice Department and located in it an Assistant Attorney General for the Postoffice Department, who is an officer of the Department of Justice. He has no administrative duties, his function being advisory to the Postmaster General and his Assistants.

The Postmaster General is a political head, a cabinet officer. His time is taken up by cabinet sessions, the advice of the President on matters pertaining to affairs of state and the necessary social duties. The position is largely honorary. The average time of Postmasters General is less than two years. They come in at the head of a service of which they know practically nothing and never stay long enough to learn. If all the Postmasters General for the past twenty years could be

taken one at a time and questioned, it is doubtful if one of them would be able to tell offhand the rates of postage on mail matter, much less any of the vast details of the great system.

If now the machinery of this great establishment in all its ramifications worked perfectly, every man knowing and every man performing exactly and regularly every duty, nothing more would be required. Human nature is, however, in postal employes the same as in others; it has its imperfections. Not every postmaster knows his duty, nor does every clerk, carrier or mail messenger know his duty, and not every one knowing his duty performs it honestly and fully. It is this unavoidable condition in all human institutions which requires in the postal establishment another kind of service, performed by a corps of field agents. Their duties are to travel about and see that the postmasters and other employes are instructed; that the service here and there is increased or diminished, as the interests of the public require; to audit the accounts of postoffices; to police the service, etc. These agents have no administrative duties; theoretically they are gatherers of information from and dispensers of information to the whole service. They are called the eyes, ears and arms of the Postoffice Department, and are the direct representatives of the Postmaster General.

These field agents are officially designated as "Postoffice Inspectors." They render their reports, not to any Assistant, but direct to the office of the Postmaster General—to a Chief Postoffice Inspector therein.

CHAPTER IV.

The Raid.

For miles away the great dome of the big office building of the publishing plant of the Lewis Company* is visible; one can see it long before the city line is crossed. Unlike the plants of the great cities, crowded together so that air and light are at a premium, this building stands out alone upon a mound, where all is air and all is light.

There is not an office, room or place in this institution where the light of day and the light of scrutiny may not enter at will. About it all is an atmosphere hostile to darkness and secrecy. To its offices and to its shops and workrooms, the Company bids the public always welcome. The publishing plant and the bank were the property of the "common people," according to the founder and the others who speak of them. In the first there were about a hundred of the best citizens of

*In the extreme back of this book, some illustrations will be found which will give the reader a better idea of the size and character of this enterprise. They are produced merely for that purpose.

St. Louis interested as stockholders. In the second there were about twenty-seven thousand stockholders concerned; these were scattered broadcast throughout the country.

Not a person in this little city, not a person interested financially or at work in these institutions, full of hustling business, sunlight and good cheer, suspected that there was to be a raid upon them by the government and that the hour of doom was at hand. All this which was so big and promising, was to be blasted and destroyed; idleness substituted for activity. All this great work—this place of industry, employing and supporting hundreds of people, and all the treasure, and all the labor expended in building up its business—was to be wiped out; not by fire, not by earthquake, not by tempest, but by the blighting hand of a tyrant—one single man who but for a brief period of time was vested by the people with governmental authority and power—a stroke of his pen and all was over. The czar and autocrat of all the Russias is not clothed as he with destructive power.

What a spectacle it was! But yesterday all was peace, hustling activity, prosperity and happiness; today the hand of death was upon it all. The edict had gone forth, the bank had been destroyed and now the busy hum of the machinery of the big publishing plant was hushed. "Why was this? What was wrong? Why this destructive act?" None to this day can reason it out.

Three men were seen coming up the walk. They ascended the white marble stairway leading to the office of the President of the Bank.

"Is Mr. Lewis in?" they asked.

Yes, he was—he is always in—no one can understand how he sleeps or eats; he seems always to be at work—always in.

"We came to investigate your bank; we are the direct representatives of the Postmaster General," they said.

"Why, pray, does the Postmaster General want to investigate the bank?" President Lewis asked.

"Well, we have some complaints; some persons are not satisfied," was the answer.

"Who are they? Let me see the complainants," mildly asked the President. "You know, gentlemen, every institution, especially a successful one, or one that is novel has its opponents—its enemies—persons who have reasons for not wanting it to succeed. Will you not inform me who has complained, and the nature of the complaints. They may be easily explained?"

"No, we cannot. We are under orders and will make our own investigation and find out if there be anything wrong;" the men replied.

"May I, then see the report of your investigation when it is completed? That is only fair, is it not?" the

President meekly asked the representatives of the Government.

"No, our report will be secret; confidential. We cannot make known our findings except to our superiors, and we will be responsible for it," they said.

"Then you want me to turn over this bank, its books and documents to you to go over and from them you will construct a report to the Postmaster General?", asked the President.

"Yes," they replied.

"And I am not to be allowed to know why or what for, or for what reason, only that you have some complaints. I must be content with the knowledge that you represent the Postmaster General in this work and ask no questions?"

"Yes."

"Gentlemen, my thought is, if I may venture so far, that the Postmaster General is the head of a mail service and I have never before heard of his duties including the investigation of banks. This bank was organized under the laws of the State of Missouri and it is governed by and is submissive to those laws. It is open to the agents of the State at all times. Surely this is something new in the way of duties for the Postmaster General, is it not?" asked the President.

"Well, you use the mails," was the answer.

"Yes," replied Mr. Lewis, "but so do all the banks.

I have not heard of the Postmaster General examining the private books and affairs of any others."

"We may; we have absolute power. We can investigate any bank or business that uses the mails. The use of the mails is a privilege," they said.

Without further discussion or dispute, President Lewis turned over to the representatives of the Postmaster General all the books, documents and papers of the bank, and gave them full and free access to its entire business operations.

Lewis appears to be an unsuspecting character. To him every man is honest and fair until proven to the contrary, and as he saw it there could be no permanent harm result from this investigation. He supposed that it was still the purpose of the Government to foster enterprise; he had not noticed the change. The disturbance to the business of the bank would be considerable and the knowledge of the inquiry going on would be sure to leak out. Banks had been destroyed for less reason, but as this bank was safe and solvent nothing worse was likely to happen than temporary embarrassment. What might occur if he refused to allow the Postmaster General to investigate, he did not know, nor was he advised as to the law which gave such authority; but presumed that of course such a thing would not be undertaken except in obedience to some law. So Lewis

chose what he thought might be the least of two evils and threw the bank wide open.

So the Postmaster General's agents "investigated" (examined) the bank. They began in the early part of March, 1905, and continued from time to time thereafter until the report was rendered two months later, on May 17th, 1905. It was sent to the Postoffice Department—the Postmaster General.*

These men came to examine (investigate) the bank. As if this were not enough for those novitiate bank examiners, they did more: they examined Lewis' whole life, practically from the cradle, as though that had something to do with the banking business and it was a part of the duty of the Postmaster General to determine from the manner of a man's birth and his conduct whether he be fit to run a bank. Truly the report on the examination of the man Lewis was a gem. It gave what purported to be a brief history of him for the last ten years, boiled down. If that report ever gets before the Recording Angel it's all up with Lewis, if the Angel accepts it at its face value. Hell certainly has no blacker devil or more worthless character according to those experts on banks and civil conduct. It is a mighty lucky thing for the good Lord that he is not on earth at this time organizing a bank to suit these inquisitors of the

*This report is briefed and given as exhibit No. 2.

Postmaster General, for it would surely go hard with him.

So this new order of bank examiners examined, and examined, not alone the bank but Lewis personally and the others connected with him. The devil and his dupes was the sum and substance of what they reported. After picturing the bank in a deplorable state and Lewis with a cloven foot and horns, it closed with a recommendation: "We, therefore," (meaning because of the awful state of affairs in the bank and the terrible man Lewis and the bad men connected with him) "we, therefore, recommend" that a fraud order "be issued" and so later it was issued—issued against the bank and against Lewis and against the others. Well, did anybody think that they would not "make a case" and "recommend" a fraud order after they had "examined" the bank? Not unless it be some person who does not understand the spirit in which these men worked.

They came, they saw, and they "recommended." They might have "recommended" without coming at all, but that would not do; the procedure must look right, it must on its face be regular. Who can say that no matter what these men saw or found they would have "recommended." There is no proof of it except in subsequent events. But it surely looks as though the affairs of the bank did not furnish sufficient grounds to base a "recommendation" upon, and other grounds were found

in Lewis' past life. Summing it all up they "recommended." If these together did not furnish enough there is no telling what would have been dragged in to make a case and furnish the basis for the "We, therefore, recommend."

These examiners had not the power to issue a fraud order, but only to "recommend." Now the next step was to give the bank and Lewis and the others a hearing. The Assistant Attorney General for the Postoffice Department at Washington attends to that. He issues on behalf of the Postmaster General a citation or notice to those affected and fixes the date. June 16th, 1905, was the date set for the hearing; it would be at Washington before this same Assistant Attorney General.

Another Investigation.

About the same time that this bank "examination" was going on, these same men were making another investigation still representing the Postmaster General. This second investigation was into the business of the Lewis Publishing Company. Two periodicals, (The Woman's Magazine and The Woman's Farm Journal) were special subjects of attention, but the whole business was gone into and the business affairs were subjected to microscopic scrutiny.

Let it be noted here that this investigation like that of the Bank, was not only most unusual, but far beyond anything which the law intended or to which any other banker or publisher in America had ever been subjected. Then, too, Congress had provided the Postoffice Department with a special set of officers for so much of this sort of business as the law authorized in connection with publications. Congress had been convinced that men should be properly trained and qualified for it in order that such investigations as were required should not be pressed beyond the proper limits or be made to embarrass publishers unnecessarily. The postoffice inspectors had for years been relieved of any such duty, largely because of their habit of assumption of too much authority and their dictatorial methods. Their lack of experience and training for the work had caused embarrassment to administration. They are largely "experts" at all branches of the postal service and masters at none. Their reports could never be used in open court, or be shown to those who had been investigated, so full were they of the evidences of overreaching. Unwarranted assumptions, and perversion of purpose were all too frequently apparent. Their experience and training was more to "make a case" than to report the facts impartially for judgment at the Department. They have come, in addition to being the eyes, ears, and arms of the Department, to assume to be its brains as well.

Singular enough for some reason, the Postmaster General did not use the men trained in this line although they were available all the while. He relied upon his "bank examiners."

The report* of this second investigation was dated the same as the report on the Bank—May 17th, 1905. Here again these agents of the Postmaster General "recommended." They wanted the right to mail the Woman's Magazine at publishers' rates summarily cut off, under strange and unwarranted interpretations of the law invented for this case alone. They wanted Lewis cited to appear at the Department to answer why his Woman's Farm Journal should not also be cut off.

Now it will be remembered that the Third Assistant Postmaster General, in the usual course of Department business, has active charge of all the affairs of the postal system in the field as well as in the Department in so far as they relate to the right of publishers to mail their publications at publishers' rates. That official has power to decide without reference at all to the Postmaster General, all such questions. In relation to this subject he performs a quasi-judicial function. There are from fifty to a hundred such questions to decide every day.

*This report is briefed and given as exhibit No. 3.

The Assistant Attorney General has active charge of all business of the Postoffice Department in so far as fraud orders are concerned, but he cannot issue a fraud order. He has no such decisive power as the Third Assistant Postmaster General.

He, like the Postoffice inspectors, can only "advise" or "recommend." He conducts all the hearings in fraud order cases and then advises or recommends to the Postmaster General as to whether such an order shall in any case be issued. The Postmaster General himself, however, after all these formalities are complied with is not bound to issue such an order even though recommended, first by the postoffice inspectors and again by his Assistant Attorney General. He must decide for himself. But it is true that as a matter of practice, it has come to be that the recommendation of inspectors backed by that of Assistant-Attorney General is equivalent to the issuance of an order. This statement should be borne in mind for its connection with what follows.

The two reports and the recommendations of these investigators at St. Louis reached the Department May 20th, 1905. That on the Bank, went to the Assistant Attorney General and that on the publications to the Third Assistant Postmaster General.

The Assistant-Attorney General had been in it from the first, but Third Assistant Postmaster General was

now for the first time drawn into the case. The report with the recommendations on the magazines was before him. That this was a blunder developed later. If the Postmaster General had taken this report on the publications himself and acted upon it, as he was compelled to do subsequently, and had left the Third Assistant out of it altogether, the plight in which he found himself and in which his men were placed would have been avoided. It was of course, for the sake of appearances, all important that the act "recommended' to be done be done by the "proper" officer; but if that officer should fail to see and to think as he was wanted to see and to think and should insist on deciding, not according to far fetched interpretations of law, make-shift evidence, and "recommendations," but really according to law and regular practice, it was all up with the proposition for the concert of action planned.

However, this report with its recommendations was now in the hands of the regularly constituted officer of the Department. He got the results of an investigation which he did not order or direct. He found upon review of the report that it was wholly unsuited to the questions of law and fact which should properly govern the case, even if there were some reason for the investigation which had been made. If the publications were not entitled to be mailed at publishers' rates, it must be for

reasons fixed by law, not for such as were presented in the report.

The report consisted largely of opinions on every phase of the Lewis Publishing Company's business and methods. Its doings in every particular were judged bad or worse. These opinions, if sound, had no proper relevancy to the question as to whether the magazines were mailable at publishers' rates. Private business transactions of the publishing company are matters which the postal laws give the Department no right to interfere or criticise, be they good or be they bad. The magazines were entitled to be mailed at publishers' rates if they in themselves complied with the law, whether the publishers kept their books or filed their papers one way or another, or whether the earnings or expenses of the company were shown one way or another.

Under the postal laws a good man has no more right to mail his publications at publishers' rates than a bad man. But these inspectors labored to show the awfully bad man Lewis was and the bad or worse business methods of the company. Therefore it was that they "recommended" that the publications be forthwith suppressed or what amounted to that. The action on The Woman's Magazine, the larger one of the two, should be summary without so much as a notice to the publisher; and as to the other, The Woman's Farm Journal, they were willing that a hearing be given him.

Congress had enacted a statute especially to protect publishers from just such capricious acts of administration. This law these inspectors wanted ignored on strange and unusual constructions and arguments of their own, to the effect that it was not necessary to be observed. Lewis had no rights anyhow according to them. But this statute made no distinction between publishers, and it required that before any publication should be closed out, the publisher should be granted a hearing; its very purpose was to prevent the taking of such snap judgment as was here recommended. Then, too, it was the practice of the Department to allow a publisher to correct any irregularities which might be found if he could and continue his business, on the theory that it is the first purpose of the Government to foster and encourage, not to destroy.

If this Third Assistant Postmaster General had obediently subscribed to the findings and "recommendations" of the postoffice inspectors, and for the reasons they gave, without inquiring into the matter for himself and determining as to the righteousness of the act, sign an order destroying a great business, without even so much as a notice to the publisher in advance of the action, the whole situation as events will show would have been different.

As it was, those higher up were embarrassed, indeed it was worse than that; they were exasperated. The

field men had done their part, and well; their work was approved by their superior. Now the question was whether the Departmental officers would all do as well. Would they act in concert? There could be no mistaking that the Government was after the Lewis enterprises; and all should know it and subscribe without question.

From the time the reports reached Washington the very atmosphere of the Department was pregnant with hostility to the man Lewis. One could not enter the Assistant Attorney General's office and imbibe its atmosphere for a moment without feeling that the "hearing" to take place on June 16th when Lewis was to defend his bank against the proposition to stamp it a fraud, was a mere matter of form. The decision was as much made before as it would be after the hearing. There seemed to be a sort of impatience for the day to arrive.

Things were different in the office of the Third Assistant Postmaster General. What was the matter with this man any how? Surely he was blind or dull not to know what was wanted. He should not presume to think for himself. What was law, or rules, or for that matter anything else between those in office when support was wanted for any act. Had not judges on the bench been officially denounced for not disregarding the law as they saw it and deciding questions before them as they were wanted to decide them? There could be

no mistaking that the situation was both perplexing and distressing to the authorities, accustomed as they were to having their wishes obeyed in all things without question; and to have those wishes known to their subordinates by a sort of intuition in order to avoid the inconvenience of positive instructions.

Well, there was much mystery about the whole case. Things were not running smoothly. There was a deal of coming and going and of whisperings. All through the rank and file there was curiosity to know why the Department was so concentrating all its efforts on this one case, to the neglect of almost everything else. No one could answer. But in the offices of those in authority and emanating from those offices were unmistakable signs. What was behind it all? If the bank were a fraud that was one thing; but that had nothing to do with the publications. One came under one law and one under another. Why was the Department after both businesses simultaneously? It was said that the Postmaster General wanted Lewis to get a "square deal." Indeed he wanted him to get two square deals, one on the bank and one on the two publications.

But out in St. Louis things were not altogether as desired. Lewis was giving evidence of the metal that was in him. He did not seem to be awed by the spectacle of authority. He acted very much like a man that

could not conceive that he had committed any wrong and that if he were mistaken about it he would correct any irregularity or fault. Of course he thought that the Government would not destroy his bank and his publishing business without giving him that chance; it would be too drastic. He was prepared for the hearings which were to come on in the Department—one on June 16th before the Assistant Attorney General as to the bank and the other before the Third Assistant on June 17th as to whether his magazines were entitled to be mailed at publishers' rates.

This indisposition of Lewis to appear squelched and disconcerted, by the threatening hand of the Government, was not pleasant to the local officials. They were born terrorists and accustomed to fight the souls of those they investigated. Now there was renewed activity. The local situation was growing hot. It would not do to have any mistake made at the Department. A hitch there might queer the whole case. The local men were impatient and in the heat of the moment, the Inspector-in-Charge sent over the wires a tell-tale telegram.* It spoke volumes.

This telegram deepened the suspicion that there was a conspiracy on to ruin Lewis and his enterprises. "If it were done when it is done, then it were well it were done quickly." It would not do for the local men to lose

*This telegram is given as exhibit No. 4.

out on this great piece of work. It might mean some heads off, and success might mean reward. So this impatient man in charge of the local field was in a state of mind because of what seemed to be delay at the Washington end.

This telegram was dated May 31st, 1905, after telling the Department of the bad state of affairs in the bank and explaining that the local situation was quite acute (meaning of course that the public was quite mystified and making inquiry as to what the Government was about) he suggested (he could not command) *"concerted action"* on the part of the Assistant Attorney General and the Third Assistant Postmaster General. Interpreted, this means "hang together boys and do him." The former should stand ready to wield his big stick and land the bank in eternity at the appointed hour by shutting off the delivery of all mail to it and to Lewis by means of a fraud order; and the latter should wield his big stick, in concert, which would mean the killing off of the magazines at the appointed hour—in "concerted action,"—by the exclusion of them from the mails at publishers' rates. This would close Lewis up. He could receive nothing, and his means of speaking publicly upon the conditions through his magazines would be cut off. So it looked as though it was not really a serious question whether the bank had as a matter of fact violated any postal law, or whether as a matter of fact the magazines had violated any.

CHAPTER V.

"The contest of the ages has been to rescue liberty from the grasp of executive power."—*Webster.*

The Hearings.

There was now a state of suppressed excitement among the subordinate clerks and officials in the Department. The atmosphere was changed with the Lewis case. A sort of strained condition with nerves at tension existed. The Third Assistant Postmaster General had received a copy of the "concerted action" telegram. He saw in it a purpose to force him to subscribe to an act which to his mind would be an outrageous breach of his public trust. The conspiracy, if there were one, did not include him; he was proceeding in the orderly way with the public business in his charge. In a letter* dated June 8th-05 he gave, and sharply enough, his view of this bold proposition to the Postmaster General, plainly intimating he could not be hurried beyond the law as proposed. This letter was couched in language complimenting the Postmaster General personally on a

*This letter is given as exhibit No. 5.

"judicial" temperament; as though it were believed to be furthest from him to take a course with any citizen which was not justified both in law and morals, while in truth the suspicion that there was conspiracy formed to ruin Lewis and his enterprises and that the Postmaster General himself was involved, was coming more and more to be his settled conviction. This June 8th letter informed the Postmaster General that a law existed, the very purpose of which was the protection of publishers from just such capricious acts of administration, striking down established enterprises without warning as the inspectors had proposed.

It was circulated around the offices and corridors every now and again that the Postmaster General wanted Lewis to get "a decent show"—a "square deal." The Assistant Attorney General was a constant visitor to the inner sanctum; it was known that he had the ear of the sphinx-like head of the Department. No one knew positively what his frequent visits meant, but somehow everybody understood that they were in relation to the Lewis matter. Nobody could quite understand why the Postmaster General himself was taking such active interest in this one case. Hundreds were handled every week, and he never gave a moment to any other. Those who gave currency to the reports said it was to insure "fair" treatment; it was always to be a "square deal." Once an official of more inquisitiveness than discretion

said; "Well, if he really wants the man to get such a square deal, why is he devoting so much of his time to it? Why is he running the case? He don't know anything about the law and practice. It would look a mighty sight better and be more like a square deal if he would let the case take its proper course in the office to which it belongs under the regulations and where there are experienced men to handle the work. He never gave his attention to the case of any other publisher or banker and for all I can see, Lewis is as law abiding as any."

So it came about that the zeal (over-zeal) and personal attention of the Postmaster General, the fact that his own special representatives were handling the field work instead of those authorized by law for it, and the "concerted action" telegram—all this taken together, strengthened the suspicion that a deal was on.

Calls of the Third Assistant on the Postmaster General were not encouraged after the June 8th letter. Truly he could get an audience but only in the most formal way. It was plain that his conduct was not pleasing the head of the Department.

Observe now that a publisher of a newspaper or magazine may also be a banker, or a banker may also be a publisher. Many publishers are engaged in other kinds of business. There is nothing in the law limiting a publisher to that business alone or prohibiting him

from engaging in as many other kinds as he may desire. A banker or a book publisher or a pattern maker, who is also the proprietor of a newspaper or magazine and who intends to advertise his bank, his books or his terns will in all human probability do so in his own publications. There is nothing in the statutes, postal or otherwise, barring that; and moreover it is sound business sense.

The investigators of the Lewis magazines were very much exercised because the Bank was advertised in them. That fact and the circumstance that the magazines were sold at what they ruled to be a nominal rate, was part of the basis for their "recommendations." But Lewis informed the Department that if he were advertising his bank too much or were selling his magazines at too low a price he would correct both, by cutting out if necessary all that advertising and by raising the price; all he wanted was to know what the Department objected to.

It was evident, however, that it was the intention that this one publisher's case should be taken by itself and be treated under new and strange rules and far fetched interpretations of the statute and without considering the thousands of other publications in exactly the same situations and which were not regarded as infringing.

These three inspectors sent out to make a case against

any newspaper or magazine now published, could with just as much plausibility, just as much alleged reason, and just as good alleged "construction" of law "recommend" that it be closed out of publishers' rates, as they did in this Lewis case. In the public records of Congress (Document No. 608, 59th Cong., 2nd Sess.) will be found the statement of the accredited representative of all the great daily newspapers of the country before an investigating commission of Congress, boldly admitting that they all violate the law in the matter of being designed for advertising purposes and that they could not exist without being so designed; and that if the law were enforced in that regard they would all be closed out.

Even if this new construction of the inspectors was a correct interpretation of the law, why should it be enforced against Lewis alone? The laws are for all alike and it is immoral and unlawful to single out one and suddenly enforce against him unusual and strained constructions to his injury after having for years sanctioned those very same conditions not only in him but in all others. It would be the grossest injustice to all at once without notice to him and in just his case, hold these customs to be irregular. Notwithstanding this confession by the representative of the great daily papers not one of them had been disturbed. Nor was any other magazine questioned although a great percent of them

advertised to a tremendous extent not only the publisher's other business but business in general. It was a "construction" plainly for Lewis alone. His publications were to be ruled out on the ground that they were designed for advertising purposes, which if true now have been true for years and was also true of thousands of others as well; his magazines were recommended to be ruled out because they were sold at a nominal rate (a cent a copy, ten cents per year which also had been sanctioned by years of usage) and, too, when, there were many newspapers and magazines sold at that rate which it was not proposed to disturb.

Could anything be more unlawful or more immoral?

So the question was constantly bobbing up, "Why were the Lewis magazines singled out? No person could understand it. It was not the way of the government itself. The laws are no respecters of persons; they were intended to give equal rights and equal protection to all. Nor are they to be enforced under strained constructions against those who have the hardihood to criticise the administration or be relaxed for those who flatter or support it. The mystery was deepening.

If Lewis were advertising the bank too much in his magazines and for that reason they were objectionable under the law, he had said he would stop it, if they would only tell him so, but why not restrict other magazines? Most of them were advertising other businesses

of their publishers' books, patterns and other commodities. Why, for instance, was the Butterick Company of New York overlooked? Here was a giant plant with three magazines. They, like the Lewis publications, are devoted to women, but especially to women's fashions; the publisher manufactures patterns for women's garments. Can any person examine a copy of one of these three magazines and not be convinced that it is primarily designed to advertise Butterick patterns? Can much of anything be found in them but a boom for these patterns, produced under the same roof with the magazines? There is nothing in the law permitting the advertising of a publisher's patterns and excluding the advertising of a publisher's bank. So it was difficult for anyone to understand why such strange and far fetched rulings were made as to the Lewis magazines. Surely he was as much entitled to advertise his bank for a short period as the Butterick magazines are to advertise, year in and year out, the publisher's pattern business.

Not only was the construction of the law against the Lewis magazines by the inspectors most remarkable but it was still more remarkable that the Postmaster General should tolerate much less sanction such assumptions of Departmental function on the part of his field men. They were untrained and without any experience in such matters. It looked more and more as though they were commissioned for a definite purpose—to "make a case."

They had investigated and they had recommended, but now they did something more; they "suggested" *concerted action.* For consummate deviltry this telegram of May 31-05 was without an equal. Here was a bank doing business by mail. If it were a fraud, the laws as to that sort of crime were ample to deal with it. That matter stood by itself. But why in all that is decent in us should that fact, if true, call for the destruction, according to the "recommendation," of a perfectly independent publishing enterprise at what should be a single stroke—by "concerted action." Since the constitution was written we have nothing approaching this in boldness of conception for the misuse of administrative power and authority.

Here let us make a comparison. When Dreyfus walked into the presence of the Court-martial at Rennes in 1899 it is said his step was firm and his head erect, but that the awful ordeal through which he had passed had wasted him to a shadow. His hair had whitened and his face was terribly haggard, but his eye was unflinching. This soldier of France had been accused. Those who backed the accusation had the power to make good—to "make a case" through manufactured (forged) evidence—called a *bordereau,* and through a pliable court. Dreyfus knew who his accusors were, for they faced him in court and he knew

what the evidence against him was. When Lewis was before the Assistant Attorney General who was to try him, act both as judge and jury, and on the issue brand him before his fellow-men a scoundrel and a thief, place a stigma on him worse than the French court of seven men could place on Dreyfus, he was refused information as to his accusers and as to the evidence. His judge had said, too that from *that court there was no appeal.* The hearing given him amounted to the answering of some questions, and his making any statement he chose—that was all.

No matter whether this man was a criminal black as night, no matter whether his business was a fraud—think of it, here in a great Department of this peoples' government sits a judge passing sentence on one class of crimes—frauds. There is no jury; just one man and his verdict is more terrible in effect than that which has power to take human life, yet, mark you, *from this Judge and his verdict there is no appeal.* To condemn needs only "evidence satisfactory to him." It may be that the evidence which would satisfy him would not satisfy another human being. Since he need not show it, it may not be evidence at all; or it may be manufactured evidence like the *bordereau;* or simply "constructive" evidence, but whatever it may be, if it be "satisfactory to him" there is an end to the man accused. His name is gone; his credit is destroyed; his business is wrecked, a

stain is put upon him that can never be removed, a stain that descends to his children and to his children's children. He may not again receive in the mails so much as a notice of the illness or death of his wife or child or mother—nothing. Is not one likely to ask "Is this really a Republic?" When our forefathers came here to escape the tyrannies and oppressions of the old world and establish a government of the people no one of their grievances was so indefensible as this. No one of them would have believed that it would come to pass that such a tyranny would exist here.

Such power in one man over another, no matter how honestly or properly exercised, is wrong. It should have no place in a government of the people. The most honest judge might be mistaken. Put yourself in Lewis' place before this court. Be, as he was, refused information as to who accused you; what the complaint was; and what the evidence was, and hear your judge say, "From this court there is no appeal; the judgment is final." Can anything be more terrible?

The court-martial found Dreyfus guilty. Five out of seven judges so voted, but eight out of every ten Frenchmen believed him innocent and the decision of the court set a million men to work to undo the wrong. His cause became the cause of the people. Seven years later the highest court of France reopened the case and rendered a final judgment. It declared that not a shadow

of guilt rested on the man; that the accusation was entirely unjustified. It forever cleared that soldier's name of the stain which had been put upon it. But suppose that, as in this fraud order case, there had been no court with power to look into the evidence "satisfactory to him," what then? Why this innocent man, this honest soldier would have gone to his grave (he was nearly there when he won; he had taken leave of his wife and children to die dishonored), his name and that of his children and their children blackened forever on forged evidence.

"From this court there is no appeal. The decision is final," said the Assistant Attorney General and under the law that is true, unless by some slip in the procedure a means may be found to get the matter into court. A clever man holding the position of Assistant Attorney General can manage any case so as to prevent court interference. What then is left an accused citizen, when the inspectors have "made a case" and "recommended," and their findings are "approved" by those *higher up,* who depend upon the inspectors? Lewis applied to the court and was refused on the ground that the law gave the Postmaster General power that was final and unreviewable. The case of the bank is being prosecuted through the Court of Appeals and into the United States Supreme Court on the ground that there was no evidence

at all; and as this book goes to print, what the judgment of either of these courts will be is unknown.

The fundamental law of this nation is a Constitution. It guarantees that the privileges of no citizen shall be abridged; nor shall life, nor liberty, nor property be taken without due process of law; that every citizen shall enjoy equal protection of the country's laws; that the judicial power shall be vested in the courts—all this is guaranteed.

Is not a citizen's privileges abridged when, without due process of law, he is shut out of the use of the mails? Is not his property taken, without due process of law, when its value is destroyed through the power to declare if fraudulent? Is not this power to decide a man's business fraudulent a judicial power? It is not depriving a citizen of the equal protection of the country's laws when there is no appeal to a court of justice from this Postmaster General's court?

Whether this law be constitutional has never actually been settled but it is more than an even probability that if it were brought before the courts on that question it will be forever wiped out. Recently the House of Representatives, increased by the viciousness of this law, passed with only one dissenting vote a bill to provide for a court review. Administration influence is said to have killed the bill in the Senate. The zeal to defeat it is evidenced by the issuance under date of December

29th, 1906, of a pamphlet entitled "*A Memorandum by the Assistant Attorney General for the Post Office Department on the 'Postal Fraud Order' Law.*" the manifest object of which was to defeat the Bill. One is apt to inquire, Why should any honest Postmaster General fear to have a court of justice review his acts? He would not be reversed if he were right. Is it fair, or decent, for the administration to use its influence, if in truth it did, against a square deal in court for every citizen? Why should any Postmaster General want such absolute and awful power? Perhaps the answer to this question may be figured out in what follows:

Well, Lewis had his hearing on the fraud case in this court of last resort. It was then hustled off to the Attorney General himself at the Department of Justice (an unusual procedure) *for an opinion.*

Lewis got no opportunity to go before this officer and present his side of the case as he should have had. So the Attorney General had before him, on which to base an opinion, only what was sent him from the Postoffice Department. As no complete record of what Lewis had presented, had been made (the Assistant Attorney General having testified to that effect, only some notes were sent down) he could have had but a one-sided or incomplete statement of the case. In an incredibly short time the *opinion* came back. The Attorney General

with true lawyer's caution said "upon the facts stated" and he repeated that cautionary qualification time and again as if to avoid mistake as to what his opinion was based upon. "I think," he said, "there can be no doubt, *upon the facts submitted,* that E. G. Lewis the maker of these representations and promises is to be regarded as conducting a scheme or device for obtaining money through the mails by means of them."

In the phamphlet issued December 29th, '06, the following appears: "The Department relies principally for its evidence of the unlawful nature of any scheme upon the investigations of its inspectors." Now, therefore, there could not have been anything before the Attorney General for consideration but the inspectors' reports and their recommendation; they had "made a case;" and such notes as the Assistant Attorney General may have made of the hearing. So the Attorney General wisely protects himself and says "upon the facts submitted." Perhaps it is no wonder that he found as he did.

When a law of this kind is once smuggled upon the statute books, it may lie there unnoticed for years. Almost never can a citizen against whom it is used, however unjustly, attract attention to its iniquitous character. When it is attacked, the time it has stood is then urged as a sanction for its preservation, backed by the specious

pleading of those who love to hold and to exercise the arbitrary and destructive power it confers. This law is said to be backed by this administration. If that be really true it may take almost a revolution to modify it to provide for court review. Every citizen should, however, take warning lest, in its operations, it come home to him.

On July 6th, 1905 the fraud order was issued. The formalities had fully been complied with and something extra (the Attorney General's opinion) had been secured. The order went into effect July 9th. The bank, its officers and Lewis personally were shut off from the world. It or Lewis could not receive so much as a postal card from one of its thousands of depositors or its 27,000 stockholders. It and Lewis and the others, leading citizens of the great State of Missouri, and all the stockholders, were stamped frauds. And all the powers of the earth could not undo the damage or remove the stain.

There is a statute (see exhibit No. 1), forbidding any head of a Department or any subordinate of any Department, or the Public Printer, to print any matter not authorized by law and necessary to the public business. In the face of this positive prohibition, there was issued to the genaral public on July 9th, *the date the fraud order took effect,* a printed document which was not authorized by law as necessary to the public business.

It was to get the one-sided view of the Department before the public and especially to the press of the country promptly, in order to offset as much as possible, the criticism likely to follow the issuance of the fraud order, which would destroy a bank having 27,000 stockholders, and probably render their stock valueless. From the date of issue, it is apparent that the copy for it was in the hands of the printer early, probably before the order itself was issued.

This pamphlet purports to set forth the facts and reasons and the "evidence" (which Lewis was not permitted to see) for the issuance of the fraud order, and great pains were taken to say that the opinion of the Attorney General himself had been taken, part of the opinion being quoted. On the other hand the pamphlet does not say that a single person had complained against the bank or Lewis, or that it had been shown that any person had lost a cent through the alleged fraudulent bank; nor does this pamphlet contain one word which Lewis uttered at the hearing, in explanation of any of the things alleged against the bank; by the inspectors who "made a case" against it, nor does it mention the letter of the Secretary of the State of Missouri* sent to the Inspector-in-Charge (on whom, according to the pamphlet of Dec. 29, the Department depended for its

*This letter is given as exhibit No. 6.

evidence) setting forth that the bank complied fully with the requirements of the State law.

The following is quoted from the July 9th pamphlet: "The Postmaster General, after careful consideration of all the facts in the case and after considering all possible courses of action, decided that the interests of the public could be best protected only by the issuance of a fraud order against the bank and Mr. Lewis."

What a representation that is! Here in a document issued in defiance of law, sent out free of postage at the public expense, containing only one side of the case, it is said that the Postmaster General had given careful consideration to "all the facts in the case," when he could not have done so for he was not present at the hearing and the Assistant Attorney General who conducted the hearing made no stenographic record of the statements of Lewis—only some notes—so as a matter of truth neither the Postmaster General nor the Attorney General nor the public to whom the pamphlet was issued, had all of the facts before it.

The impartial observer will say that the pamphlet should not have been issued at all because prohibited by law; but being issued it was bound in common decency to give both sides of the case to the public, for its purpose was plainly to influence public opinion.

But what of the public that the Postmaster General was so zealous in protecting? As for the depositors they do not appear to have been alarmed. Rather they felt that their money was safe, as it proved to be. When the bank was destroyed by the fraud order they got back dollar for dollar. And what of the stockholders who were so protected? When the bottom was knocked out of their enterprise, astounding as it may seem, they received back 87% of the amount invested. But it already had a market value of two hundred cents on the dollar. It would seem to the casual observer that the more of such frauds we have, the better.

Truly the issuance of this fraud order was a piece of paternalism with a vengeance, but let us consider what the protected public—the depositors and stockholders—thought of it. They, according to their letters, instead of appreciating this piece of tyrannical benevolence, promptly sent Lewis their assurances of confidence by express—for the mails were shut off—and many of them told him to hold their money; use it to fight with—"fight till Hell freezes over" they said, and he did. He has fought ever since; he is fighting yet, and he says he will fight to the end. Little by little he is gaining against the overwhelming odds against him. The whole Government machinery has not been successful in bringing about his destruction as evidently was contemplated. He has gained on his oppressors.

The pamphlet issued to the public July 9th, '05, in defense of the fraud order mandate, on page 3 says: "The decision of the Postmaster General was reached after a full hearing on the case by the Assistant Attorney General for the Postoffice Department, who recommended the issuance of a fraud order and upon an opinion by the Attorney General, dated July 6, holding that the Postmaster General was *"legally justified in issuing the order."* On the same page the pamphlet also says "The Assistant Attorney General laid the *results* of the hearing before the Postmaster General who immediately gave the matter his attention." Mark this closely. The Attorney General of the Department of Justice gave an opinion that the Postmaster General would be "legally justified." It does not appear that he advised the Postmaster General that he was called upon as a matter of duty to do as he did, but only that if he did so his action could be "legally justified." In other words, so long as the inspectors furnished evidence "satisfactory to him" and the Assistant Attorney laid the *"results"* and his "recommendation" before him, he could do it. The courts could not interfere. So whenever the act can be "legally justified" an enterprise may be destroyed; that's what it means. There is to be no question of whether it is morally right or a duty to do so, but simply that the thing can be "legally justified." This fits the spirit of the times.

So long as there is no appeal from the Postmaster General's decision, the citizen is not safe. The Postmaster General may be merely honestly mistaken, or he may be deliberately misusing his power which is a mighty engine for destruction when set in motion. A prominent Senator speaking on the subject in the Senate, February 21st, 1906, said:

> **"I doubt if there is a despotism on the earth to-day that holds any single man in its dominion, with the same power over the business of its citizens, as the United States vest in the Postmaster General of this country. He can close any man's business by simply saying that in his opinion it is fraudulently conducted. A clerk, (inspector) upon an insufficient examination, can order a man's mail discontinued, interrupt the current of his correspondence, destroy his standing in the business community, and the citizen is absolutely without access to the courts to right the wrong. His business is destroyed, his reputation can be ruined, his profits can be diverted to his competitors; and yet he is powerless to appeal, except to the same officer under whose order he has suffered this great wrong.**
>
> **Now, undoubtedly it is true that the Government of the United States ought not to allow its service to be employed by scoundrels and cheats, but this way of lodging in the hands of one man the power to destroy the business of many men is un-American. You deny the men whose business is thus assailed resort to the courts of this**

country. If you take his horse, even for a public purpose, without making him just compensation, he can call you to the bar of justice; but a single individual, responsible to nobody but his own conscience, can destroy a man's business, injure or ruin his good name, and drive him into poverty and disgrace, from a business that he has built up by his industry and sagacity, leaving him without a remedy in the courts. Thus it is that bureau after bureau is built up, and we vest them with such extraordinary power, until the American Republic will become a bureaucracy instead of a democracy—a government in which the bureau and not the people rule."

Following the hearing on the fraud order came the other hearing on the publications. It was the next day, June 17th. This was before another court in the Department. The officer who sat as Judge here was the Third Assistant Postmaster General. The case which he was to decide had no relation to the question of whether the bank was a fraud. He must, if he were governed by the law, determine whether the Lewis magazines were entitled to continuance in the mails at publishers' rates and it must be on the law and on the evidence respectively relevant. The inspectors had "made a case" and "recommended" also as to them. The greater one (the Woman's Magazine) they wanted summarily cast out of the mails without a hearing at

all or other formality, just a blow from behind to finish it up. And as to the other they were willing to accord the publisher a hearing, but it was imperative that there be "concerted action" by the Assistant Attorney General and the Third Assistant Postmaster General—one on the bank and the other on the magazines. The inspectors left nothing for those officials to do but to issue the orders. They had argued as to the law and the evidence and "recommended."

At this hearing Lewis was open and frank in his explanations and statements and it was soon perfectly clear that there was no just reason whatever why his publications should be molested. His business was prosperous and he was conducting it according to law as nearly as he knew how and in accord with the common practice among publishers, none of whom thought they were infringing upon the law. Indeed he did show that he was complying with the requirements of the law much better than many who had not been and could not be questioned. But if it were found that he was doing something which he should not do, he would immediately correct it.

So Lewis had been put to all this trouble, worry, and expense for no good reason by a most unusual course of action and it was wholly unjustifiable. In order that the Postmaster General might get a proper understanding of what an injustice had been done and

how wasteful of time, money and energy it was, the whole case was carefully analyzed and compared with other leading magazines, by the Third Assistant Postmaster General, and a report* was made July 8th, 1905. This was out of the ordinary because in the organization of the Department the Third Assistant is empowered to decide all such questions without reference to the Postmaster General at all. The cases had to be dismissed because there was no proper cause for action; but by way of making the sphinxlike Postmaster General see that an unjustifiable and unwarranted course had been pursued the whole case was thoroughly analyzed and a report sent to him July 8th. The report contained a form of letter which the Third Assistant proposed to send to the Postmaster and the usual instruction to him to inform the publisher of the decision which had been made upon the hearing accorded him.

This paper had what appeared to be the desired effect, for on July 12th, four days later, the Postmaster General notified the Third Assistant in a letter that he would abide by that official's judgment and let the magazines take their course in the regular order of administration. He, however, prevented the sending out of the usual notice to the publisher through the Postmaster. Lewis was, therefore, never informed of the decision

*This report is briefed and given as exhibit No. 7.

which had been made on the investigation and hearing. The Postmaster General's letter is as follows:

> "Please have investigation made along the usual lines pursued by your Bureau to determine whether the Woman's Magazine and the Woman's Farm Journal are entitled to transmission at second class rates. It is desired that you will have this investigation completed as promptly as may be consistent with your general practice and will bring the results to my attention.
>
> Until such investigation shall have been completed, it does not appear necessary to give the Postmaster at Saint Louis the instruction which you suggest in memorandum of the 8th instant, as continuance of the present practice will accomplish the same result.
>
> (Signed) GEORGE B. CORTELYOU,
> Postmaster General."

So the Lewis magazines were after all this trouble and expense to the Government and Lewis, to be treated as others were treated. Keep this in mind for what follows. Why was the publisher not to get notice of the judgment which had been rendered, through the Postmaster in the usual way? That had a queer look, but this Postmaster General was always doing queer things and without any question the Third Assistant obeyed.

To the July 12th letter, the Third Assistant, under date of July 21, responded as follows:

> "General Cortelyou:
>
> In pursuance of the direction in your memorandum of July 12 to have investigation of the foregoing cases (Woman's Magazine and Woman's Farm Journal) made along the usual lines pursued by this Bureau, I have assigned them to be investigated in connection with the other mail-order publications covered by your letter of July 19 to Messrs. Bromwell and Weinschenk, which outlines the policy of dealing with the class to which they belong. In the meanwhile the present status is, as you direct, left unchanged and no instructions given to the Postmaster at St. Louis.
>
> Very respectfully,
>
> (Signed) EDWIN C. MADDEN,
>
> Third Assistant Postmaster General."

The reader should now know the significance of the letter of July 19th to Bromwell and Weinschenk.* They were attorneys for the publishers of mail order magazines, but not for all. They had come to the Department and asked in view of the large capital invested and of the publishers' readiness to obey any and all rulings and regulations that the Department formulated that notice of such regulations and rulings as were adopted

*This letter is given as exhibit No. 8.

be given and that time be allowed before they should take effect, so that publishers would have an opportunity to comply and save embarrassment and perhaps destruction to their business. In the past they had been conducting their affairs as nearly according to law as they knew how, and if they were infringing it was unintentional. This proposition of Bromwell and Weinschenk was fair. Subsequent to their petition the Third Assistant prepared a letter to them agreeing to what was proposed and it was sent over the Postmaster General's signature July 19th. Two days later, the letter last quoted above was sent to the Postmaster General by the Third Assistant and he now supposed that all publishers would be treated the same.

The publication of the rules promised Messrs. Bromwell and Weinschenk did not take place until December 16th, 1905. The Postmaster General had delayed the matter. It was provided that they should not take effect for several months after. Now mark you, instead of giving Lewis the same opportunity as others to correct any irregularity, if any there were, these same agents of the Postmaster General pounced down upon him October 11th, 1905, two months before the promised rules were published and five months before they took effect, and demanded all sorts of things which were impossible to comply with. The move had the appearance of an attempt to catch Lewis unawares and find some-

thing on which to corner him, before he could learn what the Department regarded as right and wrong. They gave him 24 hours to supply information as to lists of subscribers which would take weeks to furnish. On October 12th, 1905, Lewis sent a sharp protest against this sort of treatment to the Third Assistant Postmaster General. He complained of persecution and asked for the much vaunted square deal.

The protest reached Washington October 14th and on that day it was sent by the Third Assistant to the Postmaster General with a long memorandum letter* designed to wake him up to some sense of propriety. Attention was called to the arrangement of July 19th to formulate and issue to publishers for their guidance, the rules which were to govern the Department in administering the law to them. Up to this time there never had been any such rules. If publishers had strayed from the strict law they could not be blamed. The fault was with the Department itself through having no efficient rules. This letter reminded the Postmaster General that the draft of those rules was at that very time in his hands, and that this attack on the Lewis magazines at this stage, before the publication of them and an opportunity to the publisher to adjust his business to them, if any adjustment were required, such as was given all

*This letter is given as exhibit No. 9.

others and of which he could have no knowledge as yet, had the appearance of persecution.

The sending of this letter to the Postmaster General did not increase his love for the Third Assistant. It was not pleasant to be reminded of one's broken agreements and promises. Who knows but that the new rules and regulations were being held up for a purpose? At all events the Postmaster General made no reply whatever; just said nothing; neither did he call off his inspectors from hounding Lewis. They worked on uninterruptedly for months investigating and investigating, and Lewis got no reply to his protest because the Third Assistant was at sea on account of the attitude of the Postmaster General.

Lewis seemed to bear all this investigation patiently. The hostile spirit in which the work was conducted, he said, made it very difficult to endure, and it was well nigh impossible to do business at all with the never ending inquisitions. His protest against these same men whom he believed had ruined his bank and had endeavored to do the same to his publishing business failed to have any effect. If further investigations were necessary he had asked that others be sent, since these men had already done enough to disqualify them to treat him fairly. But these inspectors were the direct representatives of the Postmaster General and the Third Assistant

being in the dark as to what the Postmaster General was about could not interfere.

Lewis' request should have been heeded; that it was not contributed something more to the growing conviction that the task was a definite one and the commission explicit; hence these men only could be employed. There were hundreds of other inspectors competent to take up the work if it were to get the facts impartially.

So these men continued at their work. They seemed to work as if now to make good where they had failed before. Lewis says he felt that they would use every power at their command to crush his enterprise. They had already tried and failed. Nothing now stood between him and destruction but the laws made by Congress and they were either being disregarded altogether, or construed in a strange fashion to bring about the desired results. One may imagine the state of affairs in this publishing plant and the facility with which business could be done.

The country is now infested with a great band of secret agents and inspectors, travelling about terrorizing citizens in one way or another as these men did Lewis, in the name of the Government, to carry out some purpose of an administration no longer circumscribed by constitution or law. There was no lawful power to do as those men were doing; or make such investigations

as they were making. In these times it behooves every citizen to be aware of and to distrust every Government agent. Not all who come are lawless and bent upon mischief; but until different men are in command to regulate the conduct of these agents and keep them within the bounds of law, they are dangerous. The Government is spending some nine millions a year to maintain this secret force which is really a cancer eating at the heart of the Republic. Congress would do well to cut out the whole sum and so strangle the noxious growth effectually; give it over to the army of the unemployed which it has done so much to create. Later when those in authority shall subscribe obedience to the country's laws they may be restored in such proportion as may be found necessary for the proper discharge of the functions of administration. New men would then be brought in and their work would be unobjectionable. The training of the present force has disqualified it for any position representing the people. Their attitude is altogether that of masters and not servants. While this body is allowed to roam about unrestrained citizens should demand to be shown the law which authorizes their inquiries, investigations or raids. There is none; it is simply assumed or "constructive." Grand juries, too, should scrutinize more carefully the "law" and "evidence" these men present to secure indictments of reputable citizens.

So Lewis was unable to prevent these men whom he believed had wrecked his bank from taking part in this new investigation into his publishing business. His whole publishing industry, valued in millions, was therefore in the hands of tried and true enemies and there was no way to stay their work.

Lewis' mistake was that of permitting such an inquiry into his private business affairs. It was unauthorized by law. There could be no misunderstanding the attitude of these men now; every question, every move, he said, told of their vindictiveness and hostility. The atmosphere about them was laden with it. He felt what the result would be and he was not mistaken. These men came for a purpose; it was to have the magazines closed out of publishers' rates and so suppressed. They must find some new ground upon which to base a "recommendation." The Third Assistant at Washington was in charge of this branch of the mail service and if he should be called upon again to act, it would be necessary to have sound legal reasons. They had failed once to influence his judgment and hurry him beyond the law and the evidence. They were wary this time. They would now resort to a different method; they would work indirectly through the local Postmaster at St. Louis,—a pliable creature, well suited to the work in hand.

After this investigation the Postmaster wrote down

(he has said the inspectors wrote it down for him) the whole case anew, and sent it to the Third Assistant at Washington. This time it was his (?) "recommendations." The substance of it all was that the publications be forthwith closed out. He wanted still another "searching" investigation of the whole matter, and "immediate and decisive action." It was no doubt figured that if the publications could not be suppressed summarily, that enough investigation would do the job. The Postmaster did not wait for the investigation to be ordered as he recommended, but set on foot a world-wide investigation of his own. He had "made a case" already, and was eager to have it backed up. The measures he adopted were calculated to breed distrust of the publisher abroad in the land. No Postmaster before in history had had the effrontery to usurp the functions of the Department as he did. He wrote Postmasters everywhere and had them make inquiries of persons to whom copies of the magazines were addressed to find out whether or not they were subscribers and he had figured it out that unless something was done hurriedly, the Government would soon be bankrupt.

This letter from the Postmaster was dated November 11th, 1905, and its purpose was plainly to force the Third Assistant to immediate action, casting out the magazines or at least to order still another investigation. It appeared that investigations were to follow

upon one another's heels with such rapidity and persistence as to give Lewis no peace. Too much investigation will put any publisher out of business. On the face of it this had the appearance of regularity. It is the age of investigation and who would suspect that it was now being used as a cloak. The earmarks of the inspectors in the preparation of the case for the Postmaster, were plainly visible.

The situation for the head of the Department was more embarrassing than ever. He had violated his pledge that this publisher should be dealt with under the same rules and in the same manner as all other publishers and the Third Assistant now, due to this breach of faith, would have nothing to do with the case at all unless he got positive instructions. The Postmaster General could not give instructions; that would never do; his hand must not appear. He wanted the case disposed of and would smilingly have approved of the Third Assistant's action if he had seen fit to move on the recommendations of the Postmaster(?). We may imagine the Postmaster General's embarrassment when the Third Assistant packed over to him the Postmaster's letter of November 11th, calling his attention to that officer's excessive zeal and to his usurpation of Departmental functions and suggesting again that in common decency the regular and ordinary course of administration should be followed. To put it plainly,

the Postmaster General was in a corner. Again he made no response; was just silent.

Numerous communications were now coming to the Department. Naturally, this being the field of the Third Assistant, they were addressed to him. With proper deferential ceremony in each instance they were dispatched to the Postmaster General himself. He was father of the situation and must take care of his own illegitimate child. There was ominous silence. To the field men the Department was not doing its part and there was danger that too bold an attempt to force the hand of the Third Assistant would result disastrously. Caution was necessary.

CHAPTER VI.

An Indictment.

Now the field agents were active in another direction. Let it be recorded here for all time that the most dastardly of deeds was due to be committed. The Grand Jury had been convened and these local men went before it, with the United States District Attorney. An indictment against Lewis and others for conspiracy to defraud the United States of postage was secured. In all this calendar of sinfulness, there is nothing equalling this. "But he that filches from me my good name robs me of that which not enriches him and makes me poor indeed." This a fitting place to quote those immortal words of Shakespeare.

So not only were the Lewis enterprises to be ruined but the man himself was to be slaughtered through the blackening of his name before the public. A desperate game was on and it was being played with a desperate hand. As a matter of truth Lewis had violated no law, nor had the others indicted with him violated any law. With just as good reason they might have been indicted for breathing the open air and standing in God's sunlight.

The indictment could not have been secured without deceiving the Grand Jury both as to the law and the evidence. It charges the mailing of too many copies at publishers' rates. No law would have been violated had Lewis mailed a thousand copies for every one he did mail at those rates. Some persons must have perjured themselves; the records of the jury room will show. What part, if any, the United States District Attorney played in securing this false indictment is not known; but when professional honor is so cheap and men in public office will stoop so low to hold office or curry favor it would seem to be time for the profession itself to act for the preservation of its own integrity.

If there be no statute to punish such a deed as the securing of this indictment was, our laws are defective. No man who took part in that outrage, Postmaster General, Postmaster, Inspector, or District Attorney, whatever he be, but should, if justice were meted out to him, be doing time in some penitentiary; at least he should be impeached and not a moment longer permitted to hold office in the name of the American people.

The indictment was for defrauding the Government of postage. Nothing of the kind had been done and could not have been done. All the postage the statute required and all that the Postmaster had asked for had been paid. In all the extremes resorted to in this case this act was the most grotesquely absurd.

The crime charged was of the "constructive" variety, lately coming into prominence. Congress fixed in the law* itself the postage rate which publishers should pay on their periodical publications (magazines) at a cent a pound and placed no limit on the number of copies. It had also fixed in the law itself, the rate which should be paid by "others than the publisher"* on periodical publications at what amounts to four cents on an even pound. The language of the statute is plain and unequivocal.

In order to secure this indictment against Lewis and the others, the jury must have been made to believe that the law itself limited the number of copies which Lewis as publisher could mail at a cent a pound and that on any excess of that limit the law required the publisher to pay the four cent rate. Neither proposition was true. How this matter was manipulated before the Grand Jury can be made clear only by an examination of the records.

This deception as to the limit and the rate having been practiced, evidence was necessary. Hereby hangs another tale of falsehood and deception. There was no evidence and it had to be manufactured as the law was. So the both, the law and the evidence, were literally

*The statutes fixing the rate for publishers and the four cent rate for "others than the publisher" are given as parts of exhibit No. 1.

framed out of whole cloth. In this connection reference is made to exhibit No. 17. The inspector says "We won't quit on Lewis until we have landed him in the penitentiary."

It is important now for the reader to know of the existence of the following statute, for it comes into play at this juncture:

> **"Any Postmaster who shall unlawfully detain in his office any letter or other mail-matter, the posting of which is not prohibited by law, with intent to prevent the arrival and delivery of the same to the person to whom it is addressed, shall be punishable by a fine of not more than five hundred dollars, and by imprisonment for not more than six months, and he shall be forever thereafter incapable of holding the office of Postmaster." (R. S. 3890.)**

The President of the United States or no other officer has authority to set aside a law of Congress. On the other hand, he and every officer under him to the very lowest, take, on entering upon their duties, a solemn oath to faithfully execute all of the laws of the United States. Postmasters General, Judges on the bench, District Attorneys, Postmasters, Inspectors—none are exempt. Those dealing with Lewis and his enterprises were, however, not deterred by such things as laws if they were in the way.

This Postmaster at St. Louis, did, in the face of this positive Statute, making his act a penal offense, hold up nearly half of one of the issues, (upwards of 300,000 copies—three carloads) of one of the Lewis magazines. Ostensibly this was the "evidence" to support the fraudulent indictment. As will be seen it, even though it were real evidence, was procured by deliberate violation of law. As a matter of truth, the lawful postage had been paid upon these copies; the Postmaster had demanded no more and could not lawfully demand more. But if he had and Lewis had therefore known that more postage was required to get his magazine out he might, lawless as it was, have paid it, rather than have his thousands of subscribers deprived of their copies. But here he was indicted for committing a crime when really he was exercising a privilege which the law gave him in no uncertain terms; and now the alleged evidence to support the fraudulent indictment was literally stolen from him. They alleged that these three carloads of copies were in excess of what Lewis could mail under the limit.

The like of this for pure tyranny has not been seen in this country since it was born. Give a publisher a right by law to mail at a cent a pound and then indict him because he did not pay four cents a pound, when he was never even asked to pay more. They might as well have indicted him for not voluntarily paying $4.00

a pound. There would be just as much law, just as much reason and just as much evidence to sustain that rate as the other.

After this hold-up of three carloads of mail matter, the Postmaster said in a communication to the Department that he was instructed in the matter by the inspectors and the United States District Attorney. His letter was addressed to the Third Assistant who promptly sent it to the Postmaster General, calling his attention especially to it. The Postmaster General was again silent and of course by his silence acquiesced in this violation of law. Here then were officers sworn to faithfully execute the laws instructing that they be violated and others sanctioning the violation.

As this book goes to press these three car loads of copies are still in the postoffice—over two years old.

Lewis has brought suit for damages from the Postmaster for his action, holding up the copies of his magazine; the case is yet to be heard. He could not secure an indictment by the Grand Jury to punish him criminally, as the Statute provides, because the District Attorney, through whom it must be secured, having, according to the Postmaster, been accessory to the violation of law, could be depended upon to shield himself. An indictment of the Postmaster would expose him.

This is a terrible example of the abuses of the grand jury system so general of late; its manipulation for

ulterior purposes in the name of the Government has become only too well known. To indict a man is to stain him in the public eye in some degree, however false the charge, but the public should by this time be educated to the fact that many an indictment is returned when the law or evidence or both are wanting.

Later another official pamphlet was issued from the Department. It announced to the public that Lewis was "under indictment in the United States Court at St. Louis upon the charge of conspiring to defraud the United States of postal revenue."

So ends this Chapter of official crime and lawlessness. First ceaseless investigation to disrupt an established business by indirection; then an indictment as false as sin procured against three innocent men by misrepresentations or perjury or both; then false evidence —three carloads of it, the property of the publisher lawlessly taken from him by stealth and confiscated, wantonly wasted, for it would never be brought into court, and then the publication in an official pamphlet of the indictment, printed in defiance of law of sinister purpose. No greater outrage was ever perpetrated on an American citizen.

But this story of lawlessness and infamy is not yet half told. If the reader be already shocked, he may nerve himself for worse to come.

CHAPTER VII.

"He did by treason work our fall.
By treason hath he delivered thee to us."
—*Chaucer.*

We have now progressed with the story to the point where a most astounding act was to be performed, and by the Postmaster General himself—it was in March, 1906. Lewis and two others had been indicted for defrauding the government of postage. Locally the Publishing Company was being harrassed by constant "investigations" and the postmasters of the country were being flooded with communications from the St. Louis Postmaster requiring them to make inquiry of the persons to whom copies of the Lewis magazines were addressed, to ascertain if they were subscribers. The whole postal service was charged with the idea that something awful was wrong with these magazines. The reading public not knowing and unable to divine the reason for all this unusual activity in the Postal Department was fearful of some direct consequences from so much as receiving one of them out of the mails. Somehow the thing was looked upon as tainted.

Whatever communications on the case had reached

the Third Assistant were promptly dispatched to the Postmaster General, one following fast on another's heels. He was making no response to any. All this is of record; so that it will not in any future investigation be difficult to establish the accuracy of this statement.

The Postmaster General maintained through all this bombardment his sphinxlike silence and air of impenetrable mystery. In each letter of transmittal the Third Assistant requested instructions as to how to act under the unusual circumstances and frequently injected some hint, designed to arouse the head of the Department to a sense of decency. Notably this was true of the communications of October 14th, '05*, and that of November 24th, '05, the first transmitting the publisher's letter complaining of the unreasonableness and impossibility of complying with the demands of the inspectors, allowing him twenty-four hours to furnish information that would require weeks to collate; and the second, the complaint of the hold-up a month before of three carloads of copies, on which the lawful postage had been paid. These communications were all retained but no reply to any came back. Now, however, the time was approaching when the Postmaster General would be compelled to act. No doubt his conscience was troubling him. He dared not trust himself to give instructions face to face with his Third Assistant and he feared to

See exhibit No. 9.

write. He was not in position to call off his local agents for that would have amounted to a confession of wrong. The work had gone too far for that. It must be brazened out.

On March 15th, 1906, the Postmaster wrote again. In this letter he called attention to the November 11th letter and complained of receiving no reply. The fraudulent indictment of Lewis and others had now furnished ample evidence, if that were lacking before, to the Third Assistant that a bold conspiracy had been formed, the purpose of which was to destroy Lewis and his enterprises and that for the sake of appearances only was he expected to act at all. It would look better if he perform the part of the work which in the ordinary course of business would have been handled by him.

The Postmaster urged. "It is becoming," he said, "important that I be promptly advised as to what postage should be required on the copies of the publication being held in this office (meaning the 300,000 copies held up in October). Here let the reader remember that the copies on which this man was asking advice as to postage rates had been held for more than five months, the law prohibiting any delay whatever. Nor was this instruction wanted that the Postmaster might tell the publisher that more postage was required and when paid, forward the copies. No, no, not for that; but that he might testify in court that the "proper" officer in the Depart-

ment had ruled that the statuatory rate was one cent for each four ounces, or four cents on an even pound, when it was only one cent on an even pound.

This March 15th letter reached the Third Assistant on March 17th, and it was at once transmited to the Postmaster General with another letter of record, laying the matter before the head of the Department afresh. Attention was called to the previous communications sent in, to which he made no response. It was now imperative that there be action by the "proper" officer and the maneuvers to bring this about were amusing. On the same day that the Postmaster at St. Louis wrote his letter, namely March 15th, the Inspector-in-Charge there wrote the Chief Post Office Inspector at Washington stating the necessity of having the "proper" officer rule as to the rate on these copies. This letter stated that the Postal Laws and Regulations made no mention of the rate charged upon them by the Postmaster and which now the "proper" officer was wanted merely to confirm, regardless of law and practise, in order to make a case against Lewis and others.

Among other things the inspector said:

"It is necessary in the prosecution of the case to show that the postage on these excess mailings required by the department to be paid (assuming we prove a mailing in excess of the number to which the publishers are en-

titled) is one cent per copy, or for each four ounces, when sent to a single address."

This rate amounted to five cents a pound since there were five copies in the pound. The following is the statute which was being "construed" to apply to Lewis:

> **"The rate of postage on newspaper and periodical publications of the second class, WHEN SENT BY OTHERS THAN THE PUBLISHER or news agent, shall be one cent for each four ounces or fractional part thereof, and shall be fully prepaid by postage stamps affixed to said matter."**

It will be seen that this statute is for "others than the publisher." There is not in any postal law one word fixing any such rate on publications sent by the publishers thereof. The law fixes a cent a pound on the bulk weight of their publications.

Now the indictment having been secured they were getting ready for the trial, at least ostensibly. They began to look up the law and the regulations and apparently for the first time discovered there was neither law nor regulation to sustain them, so they set about to manufacture it. In the letter of March 15th, the Inspector further says:

> **"In the preparation for trial by Inspectors Sullivan, Stice and Reid, involving a careful examination of the postal laws on this point, it develops that there**

> is an apparent failure to specify the exact course to be pursued by Postmaster in the way of collection of postage on abuse such as the one now in court."

Here was embarrassment indeed, and the "proper officer of the Department" was expected to do his part to help them out. Further on the letter says:

> "What the Attorney will need as evidence through the Postmaster will be the Postmaster's testimony to the effect that the legal rate chargeable on these publications mailed in excess of the number to which the publishers were entitled, is one cent per copy * * * * *. The postal laws being silent on that direct proposition, it is necessary that he be instructed by the proper officer of the Department."

Plainly if this piece of business was to be carried through, the Third Assistant must enter into the conspircy to manufacture the law and the evidence such as "the Attorney will need."

This letter of the Local Inspector, like that of the Postmaster made it plain that no inquiry was to be made as to the basis for the allegation that excess copies had been mailed. The Third Assistant was to "assume" that the figures as to the number of copies mailed were correct and ask no embarrassing questions. In other words he was to be a figure head, back up the Postmaster, so that he might deceive the court, first, that the copies held up were mailed at a cent a pound in violation of a statute and second that they were under the statute,

subject to the rate of a cent a piece. Neither was true. No such excess copies as alleged had been mailed. This was subsequently ascertained by a commission sent out by the Department to get the facts; and second, if such excess copies had been mailed, the Postmaster had made no demand for more postage on them, so the publisher had been given no opportunity to pay the higher rate even if it were the statuatory rate for he did not know until he found out a month later through complaints of his subscribers that the copies had been held up.

The indictment was for mailing excess copies of both magazines, but only the alleged excess (300,000 copies) of the Woman's Farm Journal was held up. The alleged excess of the Woman's Magazine was not held.

In a nut shell the situation is that Lewis was, under the law, entitled to mail his magazines at a cent a pound. He was indicted, not for mailing them at a cent a pound, but for mailing more copies at that rate than the law permitted, when in truth there was no limit in the law at all, and when he had not, as a matter of fact, exceeded the alleged limit even if it were in the law; and further for defrauding the Government of postage by not paying on the copies alleged to be in excess of the limit, a rate which the law itself plainly states is not for publishers at all.

But the situation is rendered more absurd by the fact that the Postmaster, whose duty it was by law, to

require full prepayment of the legal rate before forwarding, made no demand whatever upon Lewis for the so-called excess postage, and by forwarding part of the copies alleged to be in excess without requiring prepayment of the legal rate (if it were in truth legal) so rendered himself, not Lewis, liable for the difference; since the law holds the Postmaster and not the person mailing for the legal rate on all mail whether he requires it to be prepaid or not.

The absurd situation is topped off by the ridiculous, for a large part (namely, the 300,000 or so copies held up), on which it is charged in the indictment Lewis and the others defrauded the Government of postage, did not go into the mails at all. Therefore, the $600.00 or more taken from Lewis at a cent a pound for those copies, which was truly the legal rate and no more was asked for, was in reality fraudulently taken for no service at all was rendered for it.

Still we are not through with the ridiculous end of it. The indictment charges among other things that Lewis defrauded the Government of postage because he did not pay five times as much upon those very held up copies, not only when more was not called for by the Postmaster whose duty it was to require full prepayment of the lawful rate or pay it himself, but when Lewis was given no service at all for what he did pay.

An Illustration.

It is the same as if a person should drop two pieces of printed matter in the mail with a one cent stamp on each. The Postmaster decides that two cents should be paid on each. But instead of holding both and notifying the sender, as he is required to do by the Postal Regulations, he forwards one piece, short paid and secures an indictment against the sender for defrauding the Government of postage on both pieces. Having forwarded one, he, under the law, and not the sender, is liable to the Government for any deficiency. But as a matter of fact the sender had paid all the law required him to pay on each piece. Even if this were not true, the sender could be liable only for the shortage on the piece forwarded, no fraud having been committed on the one not forwarded, for it is still held, and no service has been rendered for the one cent which has been paid.

The local inspector's letter was sent to the Third Assistant by the Chief Postoffice Inspector, the Postmaster General still not wishing to show his hand. The Chief Postoffice Inspector requested that the Postmasmaster be instructed by the Third Assistant, as the local inspector had asked. This was to get a letter in regular form and from the "proper" official. The Third As-

sistant, however, did not do as requested. He replied direct to the Chief Postoffice Inspector explaining the lawful rates of postage to be charged on periodical publications when mailed by publishers and the method of administering the law to the whole country. Here was another failure to draw in the Third Assistant who had so long stood aloof. Of course, if it had been the purpose to deal with this Publishing Company as with all others and apply to it the laws of Congress and the rules of the Department as they were applied to others, this was the officer in duty bound to act; but that was not the purpose. The intercession of the Third Assistant was wanted at this stage only for appearances and for such acts as were necessary to give the whole absurd situation the face of regularity.

The Chief Postoffice Inspector having failed to draw the Third Assistant into the case, the Postmaster General could no longer resist action. He was compelled to show his hand to some extent. Now came the first brief communication, a letter directing the Third Assistant to instruct the Postmaster as to the postage rate which should have been paid upon the copies held. He also directed the Third Assistant to assume that the Postmaster's ruling that the copies upon which this rate had been charged, were in excess of the publisher's privilege; that is, make no inquiry as to that matter. His letter directed that the Third Assistant's letter of

instruction should be submitted to him before it was forwarded, and it was.

Now comes an act of basest treachery. It is necessary for the reader to understand that the Postmaster General never before in any other case required the Third Assistant to submit to him his letters of instructions or his decisions. It should be understood too, that the Third Assistant was dealing with this very subject of administration year in and year out, as applied to the whole publishing industry of the country. Several hundred letters of instruction and many decisions were made every day in the year. Not one of these letters was ever shown to the Postmaster General. By this time, of course, it is apparent why in this one case such active interest was taken outside of the "proper" officer to deal with it.

Well, the Third Assistant prepared his letter of instruction to the Postmaster. It was written as it would have been written in any similar case, except that as the Postmaster General had directed, it was *assumed* as a basis of the instruction that the Postmaster was correct as to the excess copies; but it would have been no "evidence" and the indictment as a consequence would have fallen flat. The letter told the truth and showed the method of administration which contemplated no such proceedings and no such rulings as had taken place.

The letter as written was sent over to the Postmaster General as he had directed; and it came back *edited.* From it was eliminated that part which would render it unservicable for the purpose in hand. The letter was then re-written as directed and it now read so as to serve the Postmaster and inspectors as "evidence" it was what the "Attorney will need," and as the inspector had said would be necessary in order to make a case against the indicted men. How may we characterize this act—"Treason, stratagem or spoils"? Call it what you will, but think of a Cabinet officer lending his hand to such work, making a false ruling to sustain false evidence to support a fraudulent indictment to send these men who had done no legal wrong to the penitentiary. Does history record anything like it? Probably not.

At this time it looked as though it were really intended to try to railroad Lewis and the others into prison on this executive made law and manufactured evidence —another *bordereau.* In their boldness they conceived it to be possible to deceive the trial court and jury as successfully as the grand jury had been deceived. With a real lawyer in the position of United States District Attorney, a man with a proper sense of the honor and dignity of his profession, such a situation could never have existed, no matter how much the administration wanted it.

CHAPTER VIII.

"There is not in all the history in the world a nobler example of conscience and of courage than that set by the great English judge, who when his king wanted him to decide a case in a certain way sent this defiant message to his sovereign: 'Tell your master that I will decide this case according to the very truth and justice of it.' Such men have made our race the foremost in the civilization of all ages and of all countries."—*Bailey.*

It was still March, 1906. More than a year had passed since the raid on the Lewis enterprises began. Investigations for one cause and another had been well nigh ceaseless. The People's Bank was out of business but the magazines were still published and mailed but were under a constant state of siege.

Now the authorities were to make a new move on the publishing business. Lewis from the first never ceased to denounce his tormentors in his papers and to cry out against what he regarded as outrages committed against him. Sometime about the first of the year the *Woman's National Daily* was born. It was housed in the building originally designed for the bank. Its editorial columns never from the day it saw the light showed any

indication of the white feather. It waved no flag of truce. It was fight, fight, fight, fight for justice;—fight, "until Hell freezes over." This Daily could speak of the wrongs imposed on the Company once each day, and the magazines, once each month. Through these mediums Lewis was getting his case before the people. They were coming to see and to understand. According to him both moral and financial support were coming in. Secretly some publishers were contributing, but wanted to keep their names out of it, lest they incur the government's enmity. Readers of the publications incensed against the conduct of the authorities were sending in their contributions. Lewis was sure that if he could hold out it would be but a question of time when there would be an awakening which would check the authorities and stop the work of demolition.

But apparently the authorities perceived this too, and a new plan of cut under was put in operation. Somehow the press, the guardian of our civil liberity, was silent. So far as the public prints were concerned Lewis was fighting his battle alone—single handed. The question of finances was now a serious one. The indictment had been published broadcast in government documents; and the whole postal service was making mysterious inquiries of his subscribers in every town and in every city. New subscribers were impossible and old ones were afraid of owning to their subscriptions. Still he was not beaten;

he fought on. He was to fight as his readers and stockholders said "till Hell freezes over." Day by day and month by month he told of the wrongs. He could not be silenced. All he wanted was justice. He asked no favor; only the application of the law to him as it was applied to others, nothing more; and for that he said he would fight as long as the breath of life was in him.

The new plan of the authorities now went into operation. It would consume his ammunition—his money. Without money Lewis could do nothing. He could no longer buy on credit, the indictments had destroyed that; and so bad had the situation become that he could not borrow ten dollars on his unencumbered plant. The publication of the indictment in a government pamphlet made every source of supply fearful. Perhaps that was the purpose. Now came the first play in the new game of eating up the finances, and so by indirection accomplishing what so far had failed otherwise. If it by itself alone did not put the publishing company out of business it would contribute materially to that end.

On April 6, 1906, the Postmaster gave notice to Lewis of his intention to demand a rate of postage five times as great as the law requires publishers to pay on magazines and this was to apply to about one-half of the copies he mailed thereafter. This was effective. If it continued it would in a short time eat up what funds the company had and would more than consume its now diminished

and constantly diminishing income. Lewis had not foreseen this move, and it drove him to the point where he must take the aggressive. To cease issuing his magazines, no matter for what cause, meant destruction to his publishing business. On April 11, the Postmaster wrote the Third Assistant who according to the Postal Regulations decided all such questions, and explained the action he was taking. The Postmaster based his action upon the ruling of the Third Assistant in the doctored letter mentioned in the previous chapter which he wanted to exhibit in court as evidence to support the charge in the fraudulent indictment and upon a similar letter of instructions which he said he had from the Postmaster General. So the letter served a double purpose, first, to be used as evidence the kind "the Attorney will need," of the lawfulness of the rate charged on the held up copies which was not a statutory rate at all, but one made by ruling; and second, as the basis for a demand for the same rate on future mailings, now serving the purpose of mulcting the company of its funds, and so putting an end to its activity, since without funds it would be helpless. Lewis was compelled to yield to this demand to the extent of many thousands of dollars. He could get no immediate relief, but he appealed from the Postmaster's ruling.

Here comes another circumstance of interest. But in this case one villainy did follow so fast after another that

it is difficult to record them all separately, so interwoven are they in the warp and woof of the fabric of this great American outrage.

Lewis had tried his best from the first to have his case put into the proper bureau of the Department. He had written many letters to the Third Assistant to which he got no response. He did not know that every communication from him went at once to the Postmaster General, and that the reason that often there was no response at all and never more than a mere acknowledgement, was because the Postmaster General kept them and made no reply, and because of the delicacy of the situation in the Department. This time he did not send his appeal to the Department, he dispatched it to the chairman of the Postoffice Committee in Congress. He hoped that perhaps that course might cause a change in the tyrannization which had so long followed him. This appeal was forwarded by the chairman to the Postmaster General. It seemed to arouse that official to a sense that his unusual course was causing very unfavorable comment and suspicion as to the methods and purposes of the Department. To say the least it looked bad. To all the officers not connected with the case and to members of Congress who understood what course such a question should take in the orderly transaction of departmental business, the whole matter had a very queer look. There could indeed be no other reason than this

for now turning the Lewis appeal over to the Third Assistant to hear and to decide as was done. The case had been running over a year independent of that officer.

So on April 14th, the Postmaster General in a formal letter to the Third Assistant placed with him the duty of hearing the publisher on appeal from the Postmaster's demand for excess postage on future issues. Lewis had been indicted for having mailed excess copies of previous issues. The hearing on appeal which the publisher had asked for was set for April 30th, and here a great change came over the Postmaster General. He was less sphinxlike and mysterious, though always evasive; it is his nature. He has always something more to consider "personally." But now he was a little more communicative. He condescended to several conferences with the Third Assistant and on the face of it was very solicitous that Lewis should get a "square deal." "Lean backward" he said, "to give him a square deal." This decided change of front did have the effect of weakening the conviction which the Third Assistant had so long; namely, that the Postmaster General was in a conspiracy—in fact at the head of it—to destroy Lewis and his enterprises, and as the treatment of him and his company's business up to that time certainly plainly indicated if it did not absolutely prove.

The Postmaster General was now even gracious, and more than once smiled approvingly as he noted the

course of procedure of the Third Assistant. Anyway there appeared to be something of a softening in his austere manner and something less of bitterness in his utterances regarding Lewis.

Now Lewis was to be heard in support of his protest against the Postmaster's ruling that he should pay five cents a pound, on about half of his mailing instead of one cent a pound; and it was to be before the officer who would apply the rules to him as they were applied to all others. This was all Lewis had ever asked. He had said time and time again as the records will show that if he were breaking any rule or law, it was not intentional and that if he were permitted to know in what particular he was offending, or was at fault, he would at once correct it. But they would tell him nothing. To give publishers a chance to correct irregularities growing up in their publications and save embarrassment and perhaps destruction was the regular practice of the Third Assistant and this consideration would be accorded Lewis.

The hearing came on. Lewis was attended by a delegation of reputable citizens and it took two days, April 30th, and May 1st, 1906. Lewis asked to be shown the evidence against him but this was refused because the local authorities had not permitted it to come into the hands of the Third Assistant. Here, as in the fraud order case, Lewis was in the dark.

It turned out after all that the hearing was valueless to determine the question at issue. It could not be decided without a count of the actual number of subscribers for the Woman's Magazine and the Woman's Farm Journal. The result of the hearing was therefore that the Third Assistant appointed a commission of five men from his own office to proceed to St. Louis and make the count. These were best trained men in the Department in that line of business. They required the assistance of some sixty-five clerks from the St. Louis postoffice, and so enormous was the task that it occupied these sixty-five persons about three months and a half in the publishers' establishment. So Lewis had now another investigation, but by this time he was used to it. This investigation was conducted openly, for there is nothing in any Postal Law that requires the proceedings to be secret or mysterious. Lewis was very properly allowed to be present and overlook the count.

A brief explanation is here necessary for a correct understanding of the case. In the administration of the law as to postage rates for newspapers and periodicals it had been the rule of the Department that in the case of a publication of which more sample copies were *regularly* mailed with each issue than copies to subscribers it was not entitled to these rates at all. This was a purely arbitrary rule. The law itself placed no limit whatever on the number of sample copies which a

publisher might mail with any or every issue. The rule had been little enforced, being liberal enough, publishers did not protest. Once in a while a publisher, not having heard of the limitation would print a larger number of sample copies than he would be permitted to mail at a cent a pound and when he offered them for mailing he was confronted with the limitation. Here then was a dilemma. The publisher was innocent of intention, and yet the Department must maintain its rule for administrative purposes. If one publisher was allowed to exceed the limit others must be, so to meet such situations and relieve publishers of the necessity of wasting the excess copies printed, it was provided that the publisher should not seek to mail the excess as a publisher but should place stamps upon them (matter mailed by publishers at the pound rate is paid in money, no stamps are used) and mail them as though sent by "others than the publisher;" that is to say, at the rate provided by law for the general public. This rate is one cent for each four ounces or fraction thereof, or four cents on an even pound. Should the publisher insist on his right to mail at a cent a pound the Department could not lawfully refuse it. Its recourse was to deny the whole publication the second class rates on the ground that it was primarily designed for "free circulation"; there being more copies sent free, than were paid for. To enforce such a rule without

exception in innocent violations would mean wanton destruction to publishing enterprises, hence the value of the provision that an excess printed might go if paid by stamps, as though not mailed by the publisher, without disturbing the status of the publication in the mails; but its operation depended on the consent of the publisher.

Now it was this rule that the Postmaster invoked against Lewis, in the indictment for copies mailed and the demand for excess postage on future mailings and from this ruling Lewis appealed, saying that he had not violated it. The numbers of copies printed and mailed he said, were not in excess of the limit fixed. The Postmaster said they were. He had investigated and determined that the limit was exceeded. He was acting under instructions of the inspectors. There was good reason to suppose that the Postmaster was wrong; but the question must now be settled and it could not be short of a count of hundreds of thousands of original orders of the subscribers themselves which were in the publisher's files. That was the only true evidence of the exact number of subscriptions for each publication and it was the evidence of last resort and indisputable in the settlement of this stubbornly fought case. The commission reported about January, 10th 1907. It found the Postmaster wholly wrong in his calculations; he had blundered in one instance to the extent of about

700,000 copies and in another about 300,000, and his basis of calculation was otherwise entirely unreliable. The publishing company used different colored wrappers in its mailings. He seized upon this circumstance and others like it and depended upon them as reliably indicating the number of subscribers and the number of copies mailed to them, as well as the number mailed as samples.

An Incident.

Shortly after the Third Assistant's commission had organized for work in the Lewis Publishing Company's building ten strange men put in an appearance, and went to work apparently as of the commission's force.

When Lewis noticed this, he demanded of the Chairman (Mr. Fettis) to know if these men were of his force and working for him. No, they were not; the Chairman told the truth. Then Lewis demanded of the men themselves what they were doing in his establishment and whom they represented. They refused to tell. Then he sent a sharp protest to the Third Assistant at Washington. It was forwarded at once to the Postmaster General. There were some hurried consultations between the Postmaster General and the Assistant Attorney General. Then came from the Postmaster General

to the Third Assistant under date of June 23rd, 1906 a memorable letter. In plain terms it ordered that Mr. Lewis be deceived. Tell your Chairman, the Postmaster General said, to assume these men as his own and as if they were working for him. They will each day deliver to him sealed up the results of their work. He is to accept it and forward it unbroken to you. When received you will hand it, seal unbroken, to me.

Here was a piece of double dealing worthy of a Cabinet officer of the United States of America. Lewis was publishing two magazines. He had been hounded with inquisitions and harassing demands by postal inspectors representing the Postmaster General, day in and day out for more than a year. He had begged to get out of their hands on account of their hostile attitude. At last the Postmaster General seemed to place the case with the proper division in the Department where the officials were trained in the right line and where the treatment accorded him would be like that accorded all others. Lewis was relieved.

The Third Assistant's commission worked in the open and permitted Lewis to be present in person or by representative to overlook the count,—a privilege not his during all of the previous investigations under the Postmaster General. Now he had without reserve opened up every file, book and paper, allowing even the opening of his incoming mail—everything. He thought and had

been led to believe that now there was an end to the long campaign against him by untrained men. At this point comes these strange inquisitors and they are smuggled in under cover of the Third Assistant's commission so as to get at those files, books and papers which Lewis had thrown open, for some secret purpose, unknown to Lewis. Mark how it was planned to deceive him after he had protested. *"I desire that Mr. Fettis shall assume direction of the clerks; that their investigation be made a part of the investigation being carried on by him; that the information so obtained be transmitted daily to you by Mr. Fettis; and I desire that it be by you promptly transmitted to me. Mr. Fettis should not disclose to Mr. Lewis the information thus obtained."*

It is almost incredible that a cabinet officer could have had a mind that would concoct such a two-faced scheme as that. Lewis had been fed upon promises of fairness at last to get his confidence and then, under cover, after the manner of a thief and by stealth his private papers were searched for some purpose,—God knows what, for there is nothing in an honest administration of postal establishment requiring secrecy of any kind whatever.

This scheme of the Postmaster General was carried out. His secret agents worked on Lewis' papers, apparently as for the commission of the Third Assistant. Each day Mr. Fettis, the chairman, received from them

a sealed package and dispatched it unbroken, addressed to the Third Assistant at Washington, who at once sent it, still unbroken, to the Postmaster General, with, however, a letter of transmittal of record. Lewis was successfully deceived and his private papers were secretly searched. The Postmaster General, seeing that Lewis later got over being suspicious as to the work of these men, sent a second letter, July 6th, to the Third Assistant in which he directed that Mr. Fettis now hand the sealed package for each day direct to the local Postmaster, the round-about way, to carry out the deception, of sending them to Washington and back to the Postmaster for whom they were all the while intended, was abandoned. Both the June 23rd, and July 6th, letters* are given in full in the appendix.

It was a numerical problem; a question of totals. Lewis was, under the rule, entitled to mail at a cent a pound twice as many copies as he had subscribers. The commission's report showed that the rule, not only was not violated, but that he might have mailed many thousands more and still be within the limit, which the Postmaster held had been exceeded.

The Third Assistant decided the dispute, therefore, as he was in honor bound to do, in favor of Lewis. The exact facts had been ascertained. An order was pre-

*See exhibits 11 and 12.

pared instructing the Postmaster to return to the publishing company the thousands of dollars which he had held so long, pending the settlement of the dispute; but here the Postmaster General stepped in and ordered that the instructions be not forwarded until after he released them. So the Third Assistant reviewed the whole case in a report to the Postmaster General under date of February 7th, 1907, incorporating in it, in the form of a letter to be sent the Postmaster, his decision on the case.

The Postmaster General received the report and then closed up as before, for a full week. Mystery again settled down upon the place deeper than ever before. By intuition everybody knew that the report did not please. It was not what was wanted or what was expected. The Third Assistant apparently failed to read the "hand writing on the wall"—that nothing favorable to Lewis was acceptable. There were more secret conferences with the Assistant Attorney General, and much coming and going. The order given the Third Assistant not to make known his judgment on the appeal until the Postmaster General gave his permission added to the mystery. Such a thing had never been done before.

It should be stated, here that no less than three times had the Third Assistant asked the Postmaster General to relieve him from handling the case at all, seizing upon every excuse which came along to renew his ap-

plication, but a decision by the "proper" officer was inperative and the Postmaster General would not consent.

On Feb. 11th, the fourth day after the decision, the Third Assistant was summoned to the inner office of the Postmaster General. There sat the head of the postal service in a state of suppressed rage. As the street gamins would say he was "hot." It was a sort of passion where in the plays and stories, the dirk without warning does its swift and fatal work. There could be no mistake that this angry man hated with all the venom in him the man who was in his presence. He had dared to cross him. This was the second time. The first was in July 1905, when he found no just or lawful reason to put the Lewis publications out of the mails in a concert of action with the issuance of the fraud order against the Peoples Bank. Now he had decided the wrong way again, but really it was the commission, which had cleared Lewis. After Mr. Cortelyou got enough command of himself to speak, he said:

"The President, sir, will accept your resignation; please send it in."

"He shall have my resignation. I am of course aware that my decision on the question of excess mailings by the Lewis Publishing Company was displeasing to you; but it was the only decision which could honestly be made. The commission found the Postmaster wrong and very wrong in his contentions and I could not properly

sustain him. The question was one of fact, namely, whether the publisher had half as many subscribers on his lists as he was mailing copies of his publications. After more than three months work by some sixty-five persons, counting the original written orders of the subscribers, the commission found and reported that more than half the copies sent out were to subscribers. Therefore, sir, I found and decided in accordance with the commission's findings. I could not do otherwise and be honest. Lewis was right and the Postmaster was wrong," said the Third Assistant Postmaster General.

"You did not take into account, and weigh the evidence which the inspectors and Postmaster furnished," the Postmaster General replied.

"I gave their evidence all the weight it was entitled to have. It was not evidence. It was simply assumed to be. It was mostly assumptions, which were false, and misleading, and could not properly be allowed to weigh against the indisputable facts. To permit such evidence and rulings as the Postmaster and the inspectors advanced to weigh against actual conclusive evidence would not only be absurd but unjust and unlawful as well. I have decided, and the decision must stand so far as I am concerned," said the Third Assistant.

"When you write your resignation, do not let it show the fact that it was asked for," the Postmaster General said.

"I shall comply with your wish," replied the Third Assistant. The resignation did not show that it was called for.

This took place on February 11, but the Third Assistant held office until Mar. 22nd, which was as soon as his successor could be secured. On February 13th, two days later, the Postmaster General sent to the Third Assistant a forty page letter in which he reviewed the report and found fault with it in almost every particular, and demanded, a reconsideration of the case and that the alleged evidence, which was not evidence at all, furnished by the Postmaster and the inspectors and their rulings be given weight as against the indisputable facts found by the Department's Commission. He demanded, too, that matters wholly irrelevant to the question be taken into account and given weight. In short, his letter was an imperative command to reverse the decision which had been made, regardless of the law, regardless of the true facts, regardless of the justice of it. A decision against the publisher was what was wanted, and it was plain that nothing else would be accepted.

What a travesty of Justice it was to give the Third Assistant the appeal of the publisher to decide, when there was but one decision which would be acceptable; namely one against the publisher, and sustaining the Postmaster.

The Postmaster General should never have written

that forty page letter.* It, with the reply of the Third Assistant, dated March 2nd, 1907 (a hundred and sixty seven page letter, quoting the February 13th letter and answering it section by section) is a monument erected by himself in testimony to the incapacity of Geo. B. Cortelyou. The reply should be printed as a public document and circulated free to all who wish to study the case.

The Postmaster General in this letter of February 13th, demanded a reconsideration of the decision on the excess question and that the Third Assistant take into account as evidence such things as the color of the wrapper used in mailing, the fact that rubber bands used on the subscription cards were rotten, that the publisher was a bad man and that the Department had had trouble with him before, that the statements of dismissed employes of the Publishing Company were against him, that the business methods of the Company did not please, that the Publishing Company spent too much money for this and for that and that the books and records were not kept in a fashion to please—this and many others, equally silly, equally absurd, and equally irrelevant should, he thought, have weight. The letter makes plain that the Postmaster General was incapable of understanding, in its true relation, the excess

*This letter and the answer dated Mar. 2d, are identified as exhibits Nos. 30 and 31.

question which was decided; and that it stood by itself and must be considered independent of any such matters.

But he caps the climax of absurdity when he says:

"The contention of the Postmaster at St. Louis is not alone that the publisher has mailed sample copies, so marked, in excess of the number he was entitled to mail, but that he has mailed as going to subscribers, copies of the publication largely in excess of the number entitled by law to be so transmitted."

During the fifteen years of his experience in the postal service, the Third Assistant never before heard that the law limited the number of copies which a publisher might send to subscribers to his publication. Of all the radical, far fetched and extraordinary rulings which the Postmaster General and his inspectors sought to have applied to the Lewis case, this was the worst. So it seemed not to be so much a matter of how the conclusion was reached, so long as the decision was that Lewis was wrong and the Postmaster was right, regardless of the law, the facts, the practice, morals or any other thing. Nothing could be plainer than that this was the intent of the forty page letter. It meant to the Third Assistant—reverse your decision. Instead of basing it on the law, and practice and on the real facts, ascertained after months of labor by sixty-five persons, at a probable expense of not less than $50,000. to the Govern-

ment; base it upon suspicion and irrelevant matters; make them do duty for real evidence; never mind the law or the rights of the publisher; do as I want done—can't you understand? Nothing that this man Cortelyou has written in this case more effectually exposed him than this letter.

Mr. Cortelyou conceived it to be in his power to pass judgment on every detail of the publisher's business: whether he kept his books correctly, the manner in which he kept his subscriptions, the price paid for this and for that—no detail too small. He never read the law he had sworn to execute, or if he did, had no conception of its intent and purpose.

There is no authority of law to make inquiry, much less determine whether the publisher's business methods are good or bad. Given the duty to overlook the publications themselves as they came into the mails, Cortelyou would extend his jurisdiction to every detail in their production and maintenance.

Well, the Third Assistant did not obey the Postmaster General's command to reverse his dicision. His answer dated March 2d, 1907, practically told the Postmaster General that the dishonest act he wanted performed must be done, if at all, by himself. He said the correctness of the decision made was indisputable and that this might be determined beyond question by submitting it with the report and the findings of the

Postmaster and the inspectors to the court which was to try the charges against Lewis (the fraudulent indictment for conspiracy) where the same question was at issue. It should not be forgotten that the decision the Postmaster General wanted was necessary to sustain the fraudulent indictment against Lewis and the others. Without it the indictment would fall.

So the matter was now in the hands of the Postmaster General. If he wanted the wrong committed, it must be done by his own hand; he could not use that of the Third Assistant. He was in a corner.

On March 4th, two days after the Third Assistant's final decision, in the last hour of his Postmaster-Generalship, Mr. Cortelyou set it aside and himself sustained the St. Louis Postmaster and the inspectors in their ruling, that excess copies had been mailed, disregarding the law and all the months of work of the special commission to get at the truth of the matter. When he signed his letter so deciding he knew that his decision was false. Here it was decided that an alleged count made by the inspectors in October, 1905, that the subscribers were of the same number at each mailing for each month thereafter until May, 1906, allowing nothing for the thousands that were being added to the lists week by week; here it was decided that the 700,000 and 300,000 errors in the calculations of the Postmaster were to be sustained over the actual count and painstaking test of the exact

number at each mailing from October, 1905, to May, 1906, the period in dispute; and here it was decided for the first time in history that the law limited the number of copies a publisher might mail to subscribers at publishers' rates.

So more "evidence" to support the fraudulent indictment was furnished, not by the "proper" officer, but by the Postmaster General. This action, he said, was taken on a hearing given April 30th, and May 1st, 1906, when the investigation which followed that hearing and was a part of it, established it the very contrary.

We should not mince words in this matter. This action of the Postmaster General was a deliberate official fraud. Its effect was not only to furnish evidence to support the false indictment but it would confiscate about one hundred and thirty-five thousand dollars which Lewis had paid, or guaranteed, under protest while the question was being settled by the Department.

But this falsehood as to excess copies supporting the Postmaster against the Publisher was not the only one in the Postmaster General's letter of March 4th. In that communication he also decided that both the Lewis magazines were not entitled to be mailed at publishers' rates at all, so suppressing them. Deliberately he said that this decision was based upon a hearing required by law and given Lewis April 30th and May 1st, 1906, when he knew all the while that this, too, was a false-

hood. No such hearing was given. The hearing on those days was solely on the question of excess mailings and the Postmaster General knew this perfectly well, for he had been furnished with a copy of the report of the hearing at the very outset of which it was definitely stated that it was on the excess question and that alone.

As to the *Woman's Magazine* he said it was put out on the recommendation of the Postmaster, on an application for "entry" made August 22nd, 1902, nearly six years before; and he said "upon a careful and thorough investigation of *all* of the evidence by the Department, I find that the publication does not have a legitimate list of subscribers; that it is designed and published primarily for advertising purposes and that it is being circulated at a nominal rate, contrary to the law and the regulations."*

In the case of the Woman's Farm Journal he said that "upon a hearing" given the publisher "April 30th and May 1st, and upon a careful and thorough investigation of all of the evidence by the Department I find that the publication does not have a legitimate list of subscribers; that it is designed and published primarily for advertising purposes; and that it is being circulated at a nominal rate, contrary to law and the regulations of the Department."

*See exhibit No. 15.

This was not true; no hearing was given on those dates to the publisher on those matters as alleged. Furthermore no hearing of any kind had been given by the Postmaster General as the letter is to be understood. A great part of the "evidence" which, according to the letter, he had carefully and thoroughly investigated was not taken from the office of the Third Assistant until Mar. 5th, after Mr. Cortelyou was out of office.

Subsequently in court proceedings the United States Judge decided that no hearing at all had been given Lewis on those dates on the question of his right to mail his magazines at publishers' rates. So, that Mr. Cortelyou falsified, has been judicially determined.

The conduct of the Postmaster General in this matter was an exhibition of tyranny, lawlessness, deliberate falsehood and oppression greater than has ever yet taken place in any department of this Government.

CHAPTER IX.

One who never turned his back but marched breast
forward.
Never doubted clouds would break,
Never dream'd though right were worsted, wrong
would triumph,
Held we fall to rise, are baffled to fight better.
Sleep to wake.—*Browning.*

The Victory.

The action of the Postmaster General in his March 4th letter was designed to put an end to Lewis and the greater of his enterprises. It would be evidence to the court on the indictment and help send him to jail; and it would put both publications out of the mails and cover into the Treasury some hundred and thirty-five thousand dollars paid under protest and held in the Post-office awaiting the decision on the excess mailing question.

The promising suburban city with its great publishing plant now felt the hand of death upon it. The huge presses were shut down; the busy departments were closed up; hundreds of persons were thrown out of employment. The hope and labor of years, brought to

the very height of success by dint of hard ceaseless toil and in the face of greatest obstacles, was destroyed. The property of thousands of stockholders throughout the country was ruined, valueless. Lewis was down and out. His means of communication were cut off. He was silenced. He could not keep his contract to furnish copies to the subscribers who had paid for them. The great plant, useless for any purpose except for which it was created, would decay from disuse; desolation reigned—and all this by the single stroke of a pen—a pen which subscribed in that act of March 4th to as bold and shamefaced falsehoods as were ever uttered by man.

But hold! Not so fast! This man Lewis was not dead; he was only stunned. The faith in him that ultimately his wrongs would be righted if he could but hold out long enough was still strong and he arose up once more from among the ruins; his property and his money confiscated; under nine indictments; no funds; officially declared a fraud, a cheat, and dishonest by the very same man who had destroyed his business; people afraid to speak to him on the public streets or be seen entering his great publishing plant; yesterday worth millions, today his credit not good for a dollar; all his enterprises could not be pledged for a ten dollar loan—what a plight was this? What a state for any American citizen who had violated no law or regulation; willing

to comply with any requirement which might be imposed if the authorities would but tell him what it was; willing to correct any fault if he could find out what that fault was and be given but half a chance. What a spectacle? Surely this was administration of public business with a vengeance. Has darkest Russia a parallel? If so history does not record it.

Well, Lewis arose again; he still had one publication —*The Woman's National Daily.* Through the columns of this, at the risk of its life, he was still crying out against such wrongs and appealing to the world for justice and fair play, and for help to fight for right and decency. By some means he was able to get into court and won a victory over the Postmaster General. It was not sufficient to relieve him, but it was as far as the court thought it could go. The arbitrary power of the Postmaster General, though misused, is not subject to court review under existing laws, and so the court gave little relief, but something was gained.

The Postmaster General was successful in his purpose—the publications were dead; the publishing plant was closed down.

It is important to know that the Postmaster General based his decision of March 4th, denying the Lewis magazines the mails, on the ground that the lists of subscribers were not legitimate; that the publications were designed and published for advertising purposes

and that they were both circulated at a nominal rate—namely, a cent a copy or ten cents a year. Upon these questions the publisher had been given no opportunity to be heard and make answer, the Postmaster General to the contrary notwithstanding.

As a matter of fact, there were hundreds of thousands of subscribers for these magazines. Not a city or town in the country but contained its quota. As a matter of fact, too, there is scarcely a magazine published that is not as much or more designed for advertising purposes as were these. This, also, was decided by the court which decided that the Postmaster General falsified about the hearing on those questions. As a matter of fact, too, there are thousands of publications sold as cheaply—a cent a copy—some of them daily papers, some monthly, and others of different periods of issue. Now the reader should keep these matters in mind, and remember that Lewis had repeatedly said that if he could find out what it was that was objectionable in his publishing business or in his banking business, he would correct it, but he knew of nothing wrong. They were managed on the same principle as others except that they were more successful than many. Following this action of March 4th by the Postmaster General, Lewis kept up his fight for justice and against the persecution, using the Woman's National Daily for getting his case before the public. By and by the clouds parted—many

persons were writing in and in one way or another offering him their moral and financial support. They were following the case with interest. Some of the more fearless newspapers were making inquiries; sending their correspondents to the scene; an opening up of the scandal in the press of the country was imminent. The administration was now concerned; something must be done.

The Postmaster General who did all these things against Lewis was now Secretary of the Treasury. One day an editor of one of the Washington daily papers went to Mr. Cortelyou and stated that he had learned on good authority that the sentiment of the business men in the West was decidedly adverse to the administration and especially to him because of the Lewis case; that Lewis was generally believed to be innocent of wrong-doing; that the authorities high and low were looked upon as persecutors. This man was going West and he would look into the matter. He desired information about the case from the standpoint of the former Postmaster General. What he got, we do not know. That was in July, 1906.

This man returned from the West in August and again saw Mr. Cortelyou and laid before him his findings and views which he said were held by several of the leading papers of New York, Chicago and St. Louis. It had gotten out, too, he said, that the local officers in

St. Louis had been told that they must finish Lewis; put him out of business, or they would have to give way to others who would. They were promised preferment in office if they succeeded. The Postmaster was reported to have said that he could not be reappointed after his present term expired unless he finished Lewis. He had given it out, too, that the Washington officials, had "raised hell" with him because of the bad management and the "dirty mess" that had been made of it all. This man reported also that two of the editors of St. Louis newspapers told him that their publications were as subject to be deprived of the use of the mails as were the Lewis publications. He said that he had found that the best advertising houses in the country were glad to advertise in the Lewis publications and considered them among the best; that his investigation showed that they were made up of as good matter as other publications; and that each had an enormous list of subscribers. He reported, too, that the flooding of the mails with such letters as the Postmaster sent out to the subscribers and patrons of Lewis would ruin any business house. He showed in his report that absolutely false and misleading statements had been published in the government pamphlets which had been issued, both concerning the bank and the publications. He told how the bank after its destruction had paid one hundred cents on the dollar to depositors, and to stock-

holders eighty-seven per cent. One of the most prominent men of the West had told him that it was the saddest experience of his life that the government officials would not deal honestly with Lewis; that every bank in St. Louis was fearful of the "new power" of the postal officials and the scandal was growing and would break out before long; something must be done.

It was apparent that though now holding office of Secretary of the Treasury, Mr. Cortelyou still had the power to dictate what the Postoffice Department should do in the Lewis case.

Now we are in the month of December, 1907. The Woman's National Daily had during the summer months been subjected to a searching investigation, and once more there has been an investigation of the two defunct magazines. For many months there was not a day without an army of government employes ransacking the books and records of the Publishing Company.

On December 17th, the new Third Assistant Postmaster General sent out an order restoring the Woman's Magazine of the Lewis Publishing Company to the mails. Lewis had won. His long hard fight for his lawful rights was at last victorious. The clouds parted and the sun shone once more on the stricken publishing plant. Now again all was life, and hope and light in the suburban city. The scattered employes who had not found other employment after months of idleness

were called back. The presses began to reel off copies of the magazine. The blighting pall of government tyranny was lifted; the hope that springs eternal in the human breast was realized.

Mark you now, this magazine was put out of the mails on March 4, 1907, by Postmaster General Cortelyou; it was restored by the new Third Assistant Postmaster General. Not before in the history of the Department has any Postmaster General taken from his Third Assistant, as did Mr. Cortelyou, any such case. As to the reason for that action the reader will, no doubt have, by this time, some convictions. But note that it did not take a Postmaster General's power to undo the act of a Postmaster General; a Third Assistant did it. Mark you again, the order of Mr. Cortelyou, dated March 4th, suppressing this magazine stated that it was because it did not have a legitimate list of subscribers; that it was sold at a nominal rate, and was designed and published for advertising purposes. Of course he had to have some reason for his high-handed act. Now this magazine is restored; it has the same subscribers it had before; it is sold at exactly the same price; if it was nominal then it is nominal now; it is the same publisher and the same publication—the same thing exactly. If it was designed for advertising purposes then, it is still so designed. Then all this suffering, all this destruction of property, all this loss to stockholders, and all

this loss to hundreds of employes, all the chagrin and disappointment to thousands upon thousands of persons —reading subscribers, who having paid their money for copies of the magazine, were deprived of them, the company being compelled to violate its contract to furnish them; all this tremendous cost to defend law suits against the Government; all this work of years to gain the faith of hundreds of thousands of readers, who could not understand, for no one could, the why of it—all this lost and shattered, and now requiring the work of years to regain—all, all, a mere tribute to tyranny, unscrupulousness and incompetency in office. No Postmaster General of the past and none of the future, however bitter his feelings towards any publisher, did or will, permit himself to so misuse his power and so degrade, so disgrace the Government which honored him.

Regardless of any other consideration concerning the man Lewis, there is one circumstance in his long fight which is bound to arouse in the breast of every man and woman a spirit of admiration for him, namely, his true American grit. It was impossible to subdue him; he was fighting for what he believed to be his lawful rights; he was fighting wrongs committed against him, by those whose sworn duty it was to administer the laws to him as to all others, and to protect him and his business from injustice and discrimination. It was a

fight for life! it cost him a fortune, but he never had a thought of surrender. He knew no such word as fail. If he were crushed today, he seemed to rise tomorrow. In the very issue of the Woman's Magazine brought out in September, 1907, after the long period of suppression, on the assurance of the officials after hearing the Washington editor's report, that hereafter he would receive treatment the same as others, one whole page was devoted to fearless denunciation and arraignment of his tormentors; and that issue is the one on which the magazine was restored to the mails in December. He had won. The officials could hold out no longer. They had discovered that it was impossible to suppress him; they must at last yield and give him his rights.

Well, "Peace hath her victories no less renowned than war." The writer states here again that he holds no brief for Lewis, makes no defense for him,—he does not need it, he can defend himself. The story is simply a narrative of facts and events. This man may be a fraud, but no jury of his peers has yet so decided. We have the word of no man for it, save one who has written himself down a liar over and over again. Lewis may be a bad man, but the writer could find no one who knows him and thinks so. No one can meet and talk with him and believe it true. One thing is certain, he's no quitter. He saw his fortune being swept away but he fought on. His last nickel might go, but give in,

never. Those who sent him words of cheer and gave him some financial help in his darkest hour of need, bade him fight—fight "till Hell freezes over"—and he did; Hell was now freezing over.

This was in December and in January the Woman's Farm Journal was restored. The two publications are back in the mails. The work of rebuilding the publication business is going on day and night. It will take years to repair the damage but it is a great triumph.

The writer speaks from the standpoint of positive knowledge when he says that the Lewis magazines violated no law or regulation of the Postoffice Department in any important particular. Their subscription lists were as bona fide as thousands. If they were designed for advertising purposes or for sale at a nominal rate the same is true of from eighty to ninety per cent of all the newspapers and magazines published.

With the restoration of the Woman's Magazine to the mails the Third Assistant Postmaster General handed out to the public press a "memorandum." It purported to give a brief history of the case. The following appears on page 2 of that paper:

"In March, 1905 an exhaustive inquiry into the publication methods of the Lewis Publishing Company was instituted by the inspectors of the Postoffice Department, which inquiry extended to April, 1906. This was followed in May, 1906, by an inquiry conducted by

special agents attached to the office of the Third Assistant Postmaster General, which extended to February, 1907."

Think of it! A constant siege of investigation, admittedly hostile, lasting from early in March, 1905, to February, 1907—two full years. During all this time there was no day but there was an army of persons present in the publishing plant demanding books and papers and ransacking accounts and files. It is notorious that the mails are flooded with abuses, yet not another single publisher was so investigated during this whole two years, or for that matter ever before. There is such a thing as investigating a business to death, but these two years is not all. Later on, in this memorandum, it is stated that still another investigation was instituted; this was in September, 1907, after Lewis had applied for readmission of his magazines to the mails, upon the assurance that he would now be treated as others were treated. This last investigation lasted several months.

What a price to pay for the use of the mails!

What of the expense to the Government of all this work on this Lewis case! Not less than a quarter of a million and perhaps as much as a half million dollars was spent, considering the time, the work, the number of people employed and the interference with the real public business—all to down one publisher, and they

failed. It is difficult to believe that if Lewis were a bad man, or a fraud, or was guilty of real wrong he could have come through this ordeal victorious; that he could have survived those years of warfare upon him, with all the government batteries wide open and centered on him alone working day and night and Sundays.

But let us inquire, where the Postmaster General got his power and authority to make "an exhaustive inquiry into the publication methods of the Lewis Publishing Company?" There is not a word in any statute giving him such authority. The United States Supreme Court has more than once held that every act of the Postmaster General must be based on some law. He had none for this—not a word—nor any law capable of such a construction. He has authority to require every publisher to furnish proof that his publication complies with the requirements of the law; but there is no authority for "an exhaustive inquiry" into any publisher's business methods. It was pure assumption.

Nor has the Third Assistant Postmaster General any lawful right to publish to the world as he did, an official criticism of those methods. What other publisher has ever been so treated? Not one. On an average for every day in the year, there are from five to ten publications admitted to the mails at publishers' rates. Does the Third Assistant make announcements

as to their private affairs which have come to his knowledge officially? No. Once before this same thing was done in a pamphlet printed in defiance of law. Where did these self constituted censors of private business methods get their qualifications to sit in judgment upon them? Not one of them ever in his life directed a business one hundredth part the magnitude. Not one of them has ever had any experience to qualify him to criticise the business methods of any publisher. Like the printed pamphlet, this typewritten paper contains falsehoods and libelous statements, apparently for the purpose of justifying the unlawful rate which had been imposed upon Lewis and for the not paying of which he had been indicted, and which was still held to the extent of many thousands of dollars under protest. To give up this money now would throw down the indictment and be a confession too humiliating to make. So this typewritten announcement is a last gasp to save the face of a worsted pack of officials who have disgraced their offices.

CHAPTER X.

"Many plausible arguments and specious pretenses have been brought forward to defend the cause of wickedness."—*Webster.*

Now we are back in November, 1907. Before proceeding let us bear in mind that Lewis would have rendered the country a great service if, instead of submitting to these investigations he had demanded that the representatives of the Postmaster General show him, as he had a right to do before he submitted, by what authority of law they came on such missions. There was none.* If he had resisted and fought his case out on that line he

*—The statute which is likely to be cited in defense (of course there must be some defense offered for such conduct) of the officials in the suits for damages brought by Lewis against them is the Act of 1877. It enumerates the duties of the Postmaster General, the ninth of which is as follows: "Ninth, To superintend generally the business of the Department and execute all laws relative to the postal service." It would of course be absurd to plead such an elastic construction of this law as to support such extraordinary official activity and continuous meddling with this man's business alone. The act is thirty years old. Neither under it, nor any other, has any bank or publishing house in America ever before or since been subjected to such tyranny and oppression.

would have been better off; and he would have taught those officials a wholesome lesson.

To the casual observer it will be difficult to make the idea of wrongdoing on Lewis' part, comport with the readiness with which he permitted the repeated investigations of his books and papers, which, if wrong there were, would be sure to disclose it, when he might, and indeed should have, denied the postal officials any access whatever to them.

Lewis was under several indictments for using the mails for fraudulent purposes by means of the bank, as well as for defrauding the Government of postage. The information secured through these so called investigations was used against him and his enterprises, thus making him testify against himself, the Constitution to the contrary notwithstanding. But the Constitution and laws of the land did not afford him any protection. He was without rights. The Government (rather according to Lewis, those in charge of its machinery) was "after" him. The spectacle of the great Republic back of the work seemed to be relied upon to obscure all thought of the Constitution and laws running counter. The theory being that the Government can do no wrong, this work would appear to be righteous because done under its sanction.

The constitutional right of speedy trial when charged —the guarantee to every American citizen—was another

right which did not apply in this man's case; nothing in his favor did. It seemed from the specious excuses given by the authorities for delay from time to time, until nearly two years had past, that they did not intend to let any of the indictments come into court if it could be prevented. Apparently they were for an altogether different purpose. Now, however, Lewis was to get his tormentors into the open for the first time. Heretofore everything had been under cover.

The District Attorney is the officer who advises and instructs the Grand Jury and as he was completely under the spell of the postal authorities, we may imagine what the character of the evidence presented was. If report be true, all they were able to do, after bringing to bear the whole power, influence and pressure of the Government, and all the alleged evidence, was to secure the indictment by a bare majority of the jury.

Lewis believed that the officials had distorted before the grand jury, where he was allowed no representation, as they would before the trial jury, everything he had written and published and done. They would find meanings for his acts and words which were never intended. Every statement would be made to look dishonest or to have a double meaning. What had been secured in the investigations if capable of a bad look would be used and worked over time; but if favorable it would be withheld. This he thought was part of the

plan for his effacement; it was "evidence" against him. The fraud order had been issued upon "constructive" evidence which he had not been allowed to see or know of at the hearing and the pamphlet issued July 9th defending the issuance of the fraud order admitted that it was issued because it could be "legally justified."

The indictment now coming to trial charged Lewis with having devised a scheme to defraud by the use of the mails, although no one was produced who had been defrauded. It was said he "intended" to defraud, and that was enough; he intended to defraud because some of his promises were not kept.

So there was a solemn indictment by a Grand Jury of a citizen of the United States because he "intended" to do what he didn't do. A "true" bill was returned. Lewis was now formally charged,—indicted for having somewhere in the back of his brain an "intention" to defraud through the device of a bank. It was the best that could be done, and if it had not been that, it probably would have been for something else. He had to be indicted; it was, according to him, in the scheme and plan of the conspiracy. So it has come to be that practically an official's word, however false or biased it may be, is sufficient to indict. Men who composed the Grand Jury little thought to inquire whether they were being used as pawns in a great game, with the

principal players in the background, and the life of a great enterprise valued in millions, the stake.

Hereafter, dear citizen, look well to your intentions when you use the mails. It is your privilege only until it be the will of the Postmaster General to take it away and shut you off from the world, when some official representing him, finds evidence "satisfactory to him" and so "recommends." And you may be indicted; think of that. It is not necessary to have committed a wrongful act, but only that you so intended. Do not forget, too, that some of these officials are mindreaders—they can discover an intention with such facility as to stagger belief. If you did not know this before, you will know it now.

Some day, may it not be far distant, a great man will come out of the mass. He will write into the Postal laws the sane provision that the use of the United States mails is the *right* of every person who pays the lawful postage; and that it is not a privilege to be taken away at the caprice of any official. He will make it necessary for the Postmaster General and his subordinates to give their attention to the management, perfection and expedition of the mail service, leaving private business matters to be dealt with according to the ordinary processes of law. This man will put an end to the tyranny of the Postal establishment of today, and will

make it impossible to destroy the good name and credit of any citizen by means of a fraud order or an indictment, based upon "constructive" evidence, plausible arguments and specious pretenses; and when a public document is issued by the Department to influence public opinion on a case, it will be required to state both sides.

It may not be understood that the law under which the Postmaster General may issue a fraud order is not the same as that which makes it a penal offense to devise or intend to devise a scheme to defraud through the use of the mails. The statute which authorizes the first requires only that the evidence be "satisfactory to him" (the Postmaster General). The effect is to stop delivery of all mail matter to the person or institution named. Nothing more may be done. It does not follow that the person against whom such an order is issued will then be indicted and tried criminally; but he may be. The statutes are not inter-dependent. A man may be indicted, under the second statute for devising a scheme or for having intended to devise a scheme to defraud by means of false promises and representations when no fraud order has been issued. When the Government invokes the latter statue it is supposed to be done through the Department of Justice. (Of late known as the Department of Injustice). If the Post-office Department has any evidence, it simply turns it

over to the other. In this case, however, the postal Inspectors were wonderfully industrious. If report be true, they even drew the indictments and they determined upon and collected together the witnesses and indirectly coached them for the stand by means of letters sent out in advance: and when the witnesses came they kept them under surveillance and instruction. They were present all through the trial in the attitude of prosecutors, directing, therefore, the whole campaign, the Department of Justice being used simply as a means to an end.

The trial of the first indictment was on. After the jury of twelve good men and true had been chosen, the prosecution opened. It was apparent that this was to be no ordinary case. The stake was great—so great indeed that the Government did not depend upon the regular law officers of the district. A special attorney was brought in (something extra for the people to pay for). This circumstance and the others mentioned are likely to strike a thoughtful person as collateral evidence of the Postmaster General's over-zeal and lend some color to Lewis' contention that a conspiracy to destroy him was being worked out.

Consider this: here was the usual District Attorney and his assistants, appointed and paid for the very

purpose of handling all of the government's legal business in the district and presumably upon their ability to properly and adequately represent the government in court. It is pertinent to ask,—why was the customary legal machinery not entrusted with the whole case according to the general practice? Why was the District Attorney's office reinforced by every influence, power and effort of the Postoffice Department? No day of the trial but found from five to ten (some of them from Washington) postal officials in court. No postal duty brought them there. Only two went to the witness stand. Why all this impressive array? The case was supposed to be in the hands of the Department of Justice, and out of the hands of the Postmaster General.

If Lewis had gone down under the mere indictments (to indict a citizen is to destroy his credit and blacken his name, however unjust and groundless it may be) he might never have been brought to trial. Seemingly to make the most of the indictments in their effect upon his business in the way of depriving him of the means to fight for his liberty and his enterprise, great and unusual publicity was given them, by means of official pamphlets distributed broadcast at public expense and containing among other things the statement that Lewis was "under indictment." There was no genuine reason for making this statement in these documents. Ostensibly they were issued in relation to other matters.

The purpose of all this could hardly be mistaken. It was to put an end to Lewis' business activity by destroying his credit through casting suspicion upon him, which, of course, would be doubly strong because of the character of the documents. It would ruin any man.

But the man Lewis survived the two years awful ordeal: Indeed, in the face of such overwhelming odds, he was gaining on his enemies. At last he had forced a trial—such a trial! No American citizen who sat through that proceeding but must have felt ashamed of his government. The writer sat through it, never missing a day.

Two burly men, one fetched in from the street for the occasion, adding to the tax payers' burden, managed the government's side. The chief claim of both to distinction was their lung power, and their ability to browbeat witnesses and jurymen into submission and make suspicion and plausible argument do duty for evidence. Throughout the trial their coarse bellowing could be heard out in the street. Neither possessed force and power of calm dignified presentation of the law and the facts, as would become government representatives. It was strictly a bludgeon process, varied only with invective, pointed sarcasm and abuse aimed at the defendant.

In marked contrast to their attitude of ceaseless objection to anything and everything which could be fav-

orable to the defendant, technically or otherwise, and their bellowing at the witnesses and the jury, was that of the defending attorneys. They were calm, dignified and forceful. They did not seem to believe that the jury could be bullied into a verdict. Surely in any twelve men collected together to decide the fate of an indicted man, there would be some too sound to be influenced by such tactics. What a spectacle it was to see an American citizen so treated by the Government in a court of justice.

Here he stood, an American citizen—a man of actual and great accomplishments—one who had made, not two blades of grass grow where one had grown before, but hundreds. Pitted against him was the merciless might of all the government machinery, legal and otherwise, managed by men who never were a success at anything save tearing down what others had built up; men to whom success was a crime; men whose own lives spelled failure—here in this forum where we boast that all even the worst may come for equal and exact justice, fairness and decent treatment, stood this accused man, frail of stature, but really in business acumen a giant, asking no quarter from the government which should protect him in his rights, but which was now seeking like a wild beast to devour him, disregarding every law and principle of fairness and justice. Here he stood paying the penalty of his success, attacked by those who meas-

ured to him in accomplishments as a mole hill measures to a mountain.

For two long weeks the government piled up its evidence, so-called. All this was nothing else than what the world had for years known of Lewis. For the most part it was the very literature which he had sent out concerning his bank. The people had read it, for it was open to all. No one had seen a wrong intent in it, but the postal officials. The literature told of how the Peoples' Bank would be, and later was organized.

As a publisher of periodicals for the masses, Lewis had gained a wide reputation and confidence with the reading public. Through that confidence the readers of his periodicals had, unsolicited, sent him their money for safe-keeping. At one time he had held a quarter of a million dollars so entrusted to him; that trust was not betrayed. No one lost a penny. He was bound by no pledge. Had he dissipated every cent, there would have been no law to molest him. Nothing but his honor was behind it. From this evidence of the need, and the faith and trust of the people in him, came the idea of the bank. It was to be a mail bank for use chiefly of those remote from banking facilities. It was to be a bank of, for, and by the people.

While others slept, he worked out his plans, and when completed, he published them to the world in every detail. He told in the open public prints the story which

every other bank organizer tells in secret behind closed doors. Lewis was not of a temperament that could work in the dark. Once his plan was completed, he held it up in every detail to the public view. Tens of thousands approved the novel idea. They included thousands of bankers and business men.

The Bank was organized under the laws of the state of Missouri. Almost in a twinkling the deposits mounted to a quarter of a million—a tribute of confidence in the man. Stockholders were in almost every town and hamlet in the country. His dream was about to be realized. It had reached the point where it could not fail. The value of the stock had doubled. Two dollars was being offered for one in stock.

At the very moment when success was imminent, just as the bank was born, came the spies of the Postmaster General. They wanted to know, you know. They scented something; they always do when they come. They came to fix up a case, and they did it. Lewis, believing in the good faith of these officers of the government (?) threw open wide his doors, when he should have closed them. "Take everything," he said, "every book and every paper. You are welcome to go through all; to know and to understand the business from end to end." It was beyond his conception that persons representing the United States Government should come on an unfair mission. By admitting the Postmaster Gen-

eral's representatives and giving them his confidence, Lewis placed in their hands the club with which they afterwards beat him, first in securing the fraud order, then the indictment and later such evidence as they had to make it stick.

The literature sent out by Lewis was read by the government attorneys to the trial jury, bringing out all that part which would appear to his disadvantage. This took days, and when completed, the witnesses came on. Mostly they were women brought from the four corners of the earth. But the first to go on the stand was a postoffice inspector, one of the Postmaster General's "bank examiners." He was a subordinate, not the man in charge of the work. There was method in this, for this man could say nothing but that he obeyed orders from his superior, namely the local head of the service, who in turn obeyed orders from higher up. This witness was possessed of a wonderful forgettery, and it was in good working order when the defendant's attorney, on cross-examination, wanted to know about some things which it would not do to tell the jury; and which if the principals were put on the stand they would have been compelled to disclose. No other of the "bank examiners" was put on the stand, although all were in court throughout the trial. "Why was this?" was the general inquiry. "Does the government wish to conceal something? Is it honest? Is the case to be tricked through?

Is the case to be pettifogulized? Will this great government stifle evidence in a court of justice in order to convict a man?" The circumstance was looked upon as suspicious and significant. Indeed, to many it was a bold confession of shady methods, for it meant that the trial jury was to be allowed to get only that which would count against Lewis; and a half-told story is often worse than a lie. It was plain that the Postmaster General's other agents kept off the stand because of what might be brought out on cross-examination.

After this forgetting and indefinite witness, came the female witnesses; in all some thiry-five or forty had been summoned. They were the defrauded (?) people. Probably they never would have had such a thought if the Postmaster General's agents had not put it into their heads. They had caused each to be effectively coached for the witness stand, by means of a most remarkable letter purporting only to make inquiries, such as, if it were not true that certain promises and representations of Lewis had caused them to become subscribers for stock in the People's Bank. Of course the words being put in this way into their mouths, these innocent women, untrained in business matters and fearful of the great government and believing it could do no wrong, said, "Yes." Of course, they did. Well, who ever organized a bank or any other business without making promises and representations? They had in-

vested; some five hundred dollars, and some only one dollar. On cross-examination each admitted that for every dollar invested, he or she had received the stock for which they subscribed, so they were not defrauded; and when the bank was closed up eighty-seven per cent of the money came back to them. They were not told that the stock was worth, before the fraud order, two dollars for one invested, and that banks were offering that premium for it.

It may have been an oversight that these deluded people were not informed in those coaching letters, that it was truly a marvel of business excellence that an institution so destroyed should pay anything at all to stockholders, much less eighty-seven per cent, with the additional probability that the other thirteen per cent will later be made good, Lewis having assumed it as an obligation, if finally, when the bank's affairs are wound up, it is not available from the assets; nothing being charged to them in the way of expenses of organization, now that the bank was destroyed. A queer move, to say the least, for a man who "intended" to defraud.

After some seven or eight of these coached witnesses had been put on the stand and it became evident that the testimony they were giving was helping, not hurting Lewis, the government "rested its case." To have gone on would have made the farce more farcical. After leaving the stand some of the witnesses came to Lewis

and said that their testimony against him was due to misconception on their part, and that they regretted having taken the stand for the prosecution. That could not be allowed to go on; the government must not be made ridiculous. The only hope now was in the summing up to the jury; then Lewis, should be torn to pieces and literally his bones picked clean. The buzzards of the prosecution had marked ability for that sort of "legal" work. To what they said to the jury then, Lewis could make no answer. It was taking a desperate chance, but it was the only thing the prosecution could do. If more government witnesses were put on the case might be thrown out of court; that would be fatal. So they "rested," and depended on the summing up.

The government had now occupied two weeks in presenting its "evidence." What length of time would have been taken if all the thirty-five or forty witnesses summoned had been put on the stand, can only be conjectured. Now the scene was shifted; now was to come the most striking part of the whole proceeding. In the early stages there had been witnessed the anomaly of the defendant, himself, prosecuting himself. The government attorneys exhausted with reading the literature they presented in evidence, Lewis had relieved them. Then was seen what never happened before and is not likely to happen again in any court,—the man on trial presenting to the jury for hours the very "evidence"

which the government relied upon to prove that he had committed a crime. Nor did he falter or hesitate. No man but one with a clear conscience and truth in his heart could have been put to such a test without proving then and there his guilt.

But this was not all. Much of the alleged evidence which the Government was presenting ought to have been excluded altogether. It was unfair. It was the books and papers of Lewis, and information of his business transactions obtained in the investigations, evidence furnished by his own hand and mouth, but if he were to be convicted at all it was to be by that means; namely,—by making him testify against himself. He made no objection and did not protest his constitutional privilege. In a case on for trial about the same time, or shortly after, the defendant, an officer of a bank, was charged with looting it, and the court ruled against requiring the defendant to produce the books, documents and papers of the bank, on the ground that it would be making him testify against himself which would be unconstitutional. If Lewis had protested against the use of such evidence against him and this Judge had made a similar ruling, the Government would have been out of court, for its evidence was Lewis' own books and papers and statements made by him to the Government officials at the hearing on the fraud order case and in the investigations which he should not have allowed at all.

It was all incompetent to be used in a criminal case. Throughout the whole trial Lewis took advantage of no technicality to exclude any evidence the Government sought to present; and substantially no objection was made to any question put to any witness. On the other hand the Government raised objection, technical and otherwise to any evidence or question which would place Lewis in the proper light before the court and jury.

Lewis was the first witness in his own defense. He was to get a rigid cross-examination, when for its effect upon the jury white would be made to look black. The court room was crowded; hundreds were turned away.

First came the direct examination. In clear tones and with ready responses, Lewis told all there was to tell of what led up to the organization of the bank. Explaining the basis of the promises and representations he had made in the literature sent out, and the reason why some of these promises could not be kept.

He had, in his literature inviting subscriptions to bank stock, stated that for every dollar subscribed by others he would himself put in a like amount to the extent of his private fortune. This he had not done, Why? The reason seemed sound. He could not for the action of the postal authorities effectually prevented it. His private fortune consisted of lands valued from one to two millions and his interest in his publishing business. He explained that it was his purpose and he had ar-

ranged to dispose of his land interests. The proceeds were to go into the bank just as he had promised.

At the very point when Lewis was about to convert his land estate into money came the postal officials on another mission of investigation, practically threatening everybody with similar fate to his, if they had dealings with him. It was made dangerous to even talk with the man. He was without the protection of any law. He had no rights, constitutional or otherwise. In plain words, the government was after him and after everybody connected with him or who did business with him.

So he had not yet put in money to the extent of his private fortune, and how could he, or anybody else, under such circumstances? Now at this trial, the chief count against him, which was true, was his failure to comply with that promise. Lewis said he would have kept it if the postal officials had not made it impossible, and evidence was offered that he had already taken steps to do so when the thunder-bolt came.

But, says the indictment, Lewis had no private fortune at all. It was one of his misrepresentations, it was false to say that he had when he hadn't. On the stand, the facts as to the fortune came out, instead of Lewis making misrepresentations, the lie that was uttered in the indictment against him was forced down the government's throat. It was a bitter pill to swallow when three of the leading real estate firms of St. Louis took the

stand and testified that the property, excluding the publication plant and business, was worth upwards of a million dollars.

The direct testimony was over, and one of the most impressive scenes of the whole trial was now to come. The cross-examination was on. Lewis' was to be eaten up. The government's special attorney was to do this piece of work. He began the task with evident confidence that now he would make the fur fly. Surveying his victim, much as a wolf does, licking his chops preparatory to devouring a lamb held under his paw, and with forefinger leveled at his witness he began. Question after question he plied in quick succession, but the answers of the man Lewis came with equal rapidity. The bitter sarcastic inquisition continued for hours. Then the ponderous lawyer paused. What progress had he made? None. All the skill of this trained cross-examiner had so far failed to baffle or confuse the witness. White was still white.

The government was all the while losing ground. The tremendous advantage it always has against any citizen in any case, due to the theory that it can do no wrong, was being lost inch by inch. Something must be done to save the day. So far the witness had never lost the smile of confidence he carried to the stand. He was a match for the man who had set out to annihilate him. The situation was desperate.

Then the government examiner went at the witness with renewed force. With stinging venom and bitter sarcasm he plied his merciless questions in quick succession. Now the witness, too, showed spirit,—quick and true to the mark came the answers. Presently the inquisitor slipped a cog and asked a fatal question, one that gave the witness an opening. He perceived his opportunity. The scene was intensely dramatic. Rising from his chair in the witness stand, he, with forefinger leveled at his antagonist, stepped down almost to the very floor of the court. Then with solemn emphasis and in ringing tones he drove home his hot response. Now he no longer waited for questions, but poured forth a volley of accusations and denunciations. Literally he raised the hair of the court and spectators. The room was charged with the electricity of the extraordinary occasion. The court, the jury and the audience were spellbound. The great American outrage was due to be exposed if the witness was allowed to go on. The government inquisitor sought to parry the heavy blows and check the onslaught, but was unequal to the task. Then he asked the court's protection. The audience then broke loose—cheers and applause rang out. The marshal pounded for order, and threatened to clear the room. The scene was one never to be forgotten, but the lid was still on.

The next day one of the leading newspapers published

a strong editorial under the title "The man Raised Up," scoring pettifogging lawyers who brow-beat and abuse witnesses on the stand, and lauding the triumph of Lewis.

"You have never been, and are not now able, to produce in this court one stockholder or depositor in the Peoples' United States Bank, who ever made a complaint until this proceeding," said the witness, his eyes meeting squarely those of the examining attorney.

"Every dollar of this money was sent me personally. I was personally responsible for it. I did use it to the best of my judgment, and earned with it what interest I could for the people who sent it in, pending the organization of the bank" was another telling shaft from the witness. Then the climax:

"I accounted for every dollar, either returning the money upon request at any time before the bank was organized, or sending the stock for which the people subscribed."

The case was lost; the government had failed. No twelve men on the face of the earth could have witnessed what had taken place, and believe that the defendant's "intention" was to defraud. He had won his own case by sheer force of the truth that was in him.

The defense rested. Including the time occupied by cross-examination, two days had been consumed. The prosecution had taken two weeks.

Now came the summing up. The United States District Attorney opened for the prosecution. "Opened;" those who were present will never forget that opening. It cannot adequately be described in print. The spectacle must have been witnessed to be appreciated. In a voice pitched to the heavens he began, and for one hour and forty minutes he ranted and roared like the blast furnaces you have seen and heard, spitting forth fire and chunks of molten metal. It was not law; it was not reason; it was not common sense. The dignity, poise and spirit of fairness, which should characterize government representatives everywhere, but above all in a court of justice, were woefully lacking. It has been said that the real qualifications for office now-a-days are a loud voice and a thick neck. This District Attorney had those qualifications. If he had others, they were not conspicuous during this trial.

The defense then took the floor. The attorneys in addressing the court and jury maintained the same calm demeanor. Their standard of dignity was never lowered. They did not deign to notice the abuse, in the absence of law, evidence and argument, that had been heaped upon the man they defended. They confined their efforts to the questions of law involved and to the failure to produce any real evidence of wrong committed or intended, even in the most remote degree.

The special attorney, he of extra expense to the peo-

ple, then closed for the government. The closing was, like the opening, given over to what amounted to a tirade against the defendant, the only difference being the greater skill of the latter lawyer in the use of the invective and bitter sarcasm which was substituted for argument as to law and evidence. It may truthfully be said that this man made the most of what was no case at all and earned the extra fee which the people must pay.

Then came the judge's charge to the jury. To his credit let it be said that it, like his conduct of the whole trial, was eminently fair. The army of postal officials ranged in front of the bench (a circumstance not free from the suspicion that it was for a purpose, for surely they could not be allowed to neglect their postal duties for so many weeks for no purpose at all) apparently had no effect on him. He was unimpressionable. This cannot always be said of judges to whom positions on a higher bench are alluring, and to which an administration, taking cognizance of decisions, has the power of appointment.

The jury retired and after twenty-three hours deliberation reported that they could not agree and were discharged. It was therefore a mis-trial. There were a number of reports as to how the jury stood but none of them were reliable. There were reports, too, that the officials had taken care to select men for the jury who

would stand by them, but, of course, this could not be proven.

It will be here both profitable and interesting to look at the indictment and trial briefly in retrospect. Lewis has charged that it was all a part of a conspiracy. What evidence, if any, does this proceeding afford to substantiate that charge?

It is a crime to devise a scheme, or to have intended to devise a scheme, to defraud through the use of the mails. It was charged in the indictment against Lewis that the People's Bank, organized by him, was a scheme to defraud. This charge the government sought at this trial to prove, but failed. There may be another trial. The District Attorney, he of the thick neck and loud voice, was quoted in the public prints as stating that the government will do better next time. It should.

A little reasoning here may be interesting:

Lewis' home life is exemplary. The writer found that he had no bad habits. He is thoroughly a domestic man. His associates in business and his employes are all of the best and cleanest men. His private fortune is placed at from one to two millions. Why should such a man devise a scheme to defraud? He is already rich, and rich enough. Why should he risk disgrace to himself and family merely to add to an already large enough fortune? Is it sane reasoning to contend as the government does?

The bank, according to the indictment, was a scheme to defraud. Yet with its drag-net the government was unable to produce a single person who could show he or she had been defrauded of one cent. At this point the court helped the government out, by ruling that under the law, it was not necessary for any person to have been defrauded to constitute a crime; all that prosecution need show was that it (the bank scheme) was "devised" to defraud, not that it had done so. But for this ruling the case must then and there have been thrown out of court. So the question at issue was reduced to the *intention* for which the bank was organized; it had defrauded no one.

As before stated it was a common practice of the readers of the Lewis publications to send him, uninvited, their money for safe keeping. At one time before the bank was proposed he had as much as $250,000 intrusted to him for safe keeping by people who in the main had never seen him and who knew of him only through his publications. He appropriated none of this money to his own uses. If he had, it is doubtful if there is any law under which he could be held legally responsible. Now he did not touch that which came so easy, but did, according to the Postmaster General, organize an elaborate banking system to defraud, and so made himself liable. Certainly a man who had seen as much of the world and of business, and who had ac-

complished so much, and who had competent legal advisors for every move of his great business, might set up insanity as a defense for his conduct, if the Postmaster General's contention be true. Lewis has been charged with many things, but never with being a fool.

When Lewis published his plan for the bank, he invited the whole world to come in and buy stock, but limited every person to five hundred dollars' worth. Money poured in: the confidence in the man was of great drawing power. Had he not organized the bank as proposed, or having organized it, had he not sent the stock to those who paid their money for it, he might honestly have been indicted for having devised a scheme to defraud, and at the trial there would have been many to testify as to having lost their money through false promises and misrepresentations. It is that sort of fraud the law was intended to reach. But Lewis did organize the bank as he represented he would; he did send each person the stock for which he or she subscribed. The fact that the stock was not worth, when the bank closed up, its par value was not the fault of Lewis; it was with the Postmaster General himself. At the time of the taking effect of the fraud order, the stock certificates were in process of being issued. Necessarily the work stopped. All but about $400,000. worth of the $2,500,000. allotted had been sent out. Lewis began at once to refund the money for which no stock had been

sent. The work is not yet wholly completed. Now the people who had paid this money naturally suppossed that it was gone. The fraud order was backed up by an indictment. The two taken together was conclusive to their minds. But they got their money back. Under the circumstances Lewis might not have returned it because he would have to pay no greater penalty if convicted under the indictment whether he returned the money or whether he did not return it. This and the other circumstances of like nature scarcely comport with the idea of fraudulent transactions.

So far, then, no person was defrauded, for each had exactly what he or she bargained for, namely, stock in an actual bank of great promise and if the stock was not issued, the money was refunded. Stock in any enterprise is always sold subject to fluctuations in market value, due to unforeseen contingencies. It may go up or it may go down. The fact that the stock of the People's Bank was not worth par value when the bank was closed up by the fraud order could not be properly taken as proof that Lewis devised the bank as a scheme to defraud.

On the other hand, it looks as though the scheme to defraud might be the other way. The Postmaster General destroys a bank by means of a fraud order; its stock depreciates. Then, to escape responsibility for the loss to thousands of stockholders, he charges the organizer of the bank with devising a scheme intended to

defraud and secures an indictment by the easy means prevailing of late, on the ground that the organizer made false promises and representations when all the while these very promises and representations would have been true but for the Postmaster General's own act. Does not the scheme to defraud appear to be the purpose to support a questionable fraud order by the show of an indictment held over the affected party two years before being brought to trial, it being known all along that there was no evidence to support it.

What is the moral difference in the use of a manufactured bordereau as evidence to send a man to a French prison, and a manufactured construction of law to cover a case not within its intent and the use of "constructive" evidence and coached witnesses to send a man to a United States prison?

The public must yet know what is under cover and behind the closed doors in this Lewis case,—what is back of all this questionable work. When it does perhaps we shall see as Lewis alleges—the fine Italian hand of the express companies, working through pliable or corrupt officials, or a community of interests, or the "system," industriously killing off, by this means, threatening competition. It may be that it will take another administration to turn on the light, but the responsibility for what that light may show will be with those now in power.

CHAPTER XI.

Side-Lights on the Great Case.

There were a number of side matters and issues in this case which are exceedingly interesting from the standpoint of the citizen who esteems a public office a public trust to be administered according to the intent and spirit of the laws of the land and the genius of our institutions.

The fraud order was issued against the People's Bank July 6th, 1905. In October following, Lewis received a letter signed by a Mr. Thomas F. Adkin of Rochester, N. Y., who had had some experience with postal inspectors and fraud orders. He recommended to Lewis an attorney to take up his case with the Department with a view of having the fraud order lifted. This attorney was Leonard S. Goodwin, 808 Ashland Block, Chicago. Lewis at once wrote Goodwin and the result was that he came to St. Louis at an expense of $275.00 just to look into the case. Lewis has since learned that the letter recommending Goodwin was dictated by Goodwin him-

self in Adkin's office, Adkin allowing the use of his stationery and signing it as a matter of accommodation.

But long previous to the receipt of this information Lewis had thought he smelled a rat, and he had been diplomatically putting Goodwin off. Goodwin, however, came back in letters urging himself upon Lewis, saying his connection with the case, as Lewis had said it might, would not prejudice the Department on account of Goodwin's brother being the Assistant Attorney General and in charge of issuing fraud orders. He said in his letter of January 11th, 1906:

"It does not appear to me that my connection with your case could in any manner prejudice you with the Department and I am satisfied that I could be of material assistance to you in the matter."

In the letter over Adkin's signature first recommending Goodwin to Lewis this appears: *"You doubtless have first-class attorneys but sometimes an attorney of the right kind can do a great deal more than another on a certain case."*

Lewis had heard more or less about "traffic in fraud orders" and had engaged a private detective to look Goodwin up and get in touch with him. He was not altogether sure that there was anything in the reports which had come to him concerning this traffic but he wanted to find out as much as he could.

Now this is what is meant by "traffic in fraud or-

ders": It may be worked, for instance, in this way—an inspector calls upon a person or institution whose business is done by mail which business is either actually fraudulent or premits of being construed as fraudulent. There is an alleged investigation. The inspector demands books, papers and access to everything. He does not permit the intended victim to overlook what he is doing with them, or what sort of a report he is making, based upon them.

The first step is now complete; there is a report sent to Washington of which the victim knows nothing. He is by this time in a state of uncertainty and fright bordering on frenzy. He is seeing things. The next step is a notice; it comes from the Department and the victim is told that he will be given a hearing before the Assistant Attorney General at Washington to show cause why a fraud order should not be issued against him. This means of course that the inspector has "made a case," and "recommended." To the victim it means destruction to himself and business, which may or may not be perfectly proper. He is in a state of mind. He learns that no court can interfere. It is useless to try. About this time, too, he hears of an attorney who has large practice in this line and who is reported as very successful. He is told that this is an attorney of the "right kind." This information may come by letter from a friend, or from some one who wants to be his friend. Of course, the

victim hunts up the attorney; he is never hard to find.

Yes, he'll take the case; of course he will, but he wants the victim to get testimonials that he is "alright," because this business can be done only "on the square."

This attorney may not come to attention of the victim until after the hearing, or until after a fraud order has been issued; it all depends upon the moves in the play in that particular case. If the Attorney takes the case before there is a hearing at Washington, the masterful manner in which he defends the victim or prepares his case for presentation may be "evidence satisfactory" to the Department that no fraud order should be issued; so the case is dropped. Nothing more is heard of it,—See? But the fraud order may be issued; it depends on whether the traffic will bear it. If that happens it is a sign that the victim has got the "stuff" and there is to be a second leg pulling. Now the victim will need this attorney to fix up his literature and advertisements and prepare the amended case to go before the Department on an application to "lift" the fraud order which can be done when the evidence is "satisfactory to him" that now there is no fraud; just as it can be put on when the evidence is "satisfactory to him" that there is a fraud. Or, it may be a case where the inspector, if the victim be easy, may find that, if some slight modifications are made, he will render a favorable report, saying, no cause for action: and "recommend" that the case be dropped. Do

you understand! It is all marvelously easy, if they want to do it.

The Assistant Attorney General, if there be a hearing given, is not required to show the inspector's report or recommendation or the "evidence" on which action is taken; all that may be in the dark. All he has to do is to say that the evidence is satisfactory, and there you are. There is no power to go behind that. No court in the land can help the victim.

Naturally one will say, but the victim would squeal. Not much; especially if his business is questionable; but even if it is not, he is quietly told that this fraud order business is all on the square; he knows that he could prove nothing and he wants peace. Then too, his funds may be low and it costs a lot to fight. If he proves to be unruly, he will have a second call from the inspector and before he leaves, the victim is pretty certain to see a fraud order dangling over him ready to drop on short notice. He hears talk, too, of an indictment for devising or intending to devise a scheme to defraud. He knows how easy the grand juries are. He shuts up; of course he does. How can any man fight such a game as that? It cannot be done, so long as there is no court review, and so long as postal inspectors' reports upon public business may be kept secret, and so long as a fraud order may be imposed or lifted on "evidence satisfactory to him" which may be kept in the dark.

Of course, it will be understood that the attorney in such a case may not appear or be known at all; he may simply fix up the victim's advertisements, circulars and other literature and his correspondence with the Department, the signature being that of the victim himself.

At the "investigation" of the Peoples Bank Lewis was not allowed in the room with the "examiners"; he was not permitted to know what they found, or thought they found, or what they represented in their report they found. That was secret. At the hearing he could find out nothing; he was not allowed to see the report, or hear it read, or see the evidence which proved to be "satisfactory"—more secrecy. The Assistant Attorney General has since testified that he had made only some notes on the hearing given Lewis; there was no complete stenographic record. How easy it might all be done. Here was a bank that would be good picking—a two and a half million institution; it could put up well. No one can say because it could not be proven, that all this was but laying the foundation for the advent of Mr. Leonard S. Goodwin in October. But so long as this fraud order power is not reviewable in court, there are bound to be ugly suspicions about the business, for it is just as easy to decide that the evidence is satisfactory to lift an order as it is to decide that the evidence is satisfactory to impose an order.

The court which heard Lewis in his effort to invoke

the protection of the law, found no ground upon which it could interfere. Among other things the court said: "They (the inspectors) make their reports, and their reports, in the language of the statutes, was *evidence satisfactory to him.* * * * * That evidence may or may not have been legal evidence according to the standard of text books. It may have been hearsay. It may have been secondary. It may have been delivered by an incompetent witness; * * * * but whatever it was, it was evidence satisfactory to him."

Some of the Goodwin correspondence with Lewis is given in the Appendix.* The man who investigated Goodwin for Lewis made many reports and some of them in the form of affidavits, substantiated by witnesses. One of the affidavits is also given. All this does not prove that there was anything corrupt about the issuance of the fraud order on the People's Bank. The writer does not so allege. But neither does it prove to the contrary. The correspondence and the affidavit are given merely for what they are worth. They may or may not be "evidence satisfactory," one way or the other, to the reader.

Certainly it is unfortunate that Assistant Attorney General Goodwin should have so strenuously resisted the Bill in Congress providing for court review, as to issue a pamphlet on the subject, when it happened that

*See exhibits Nos. 18 to 29.

his brother had been soliciting that sort of business asking a $1000.00 retainer and *"other fees and charges, if any, to be arranged to our mutual satisfaction. I consider that we are both reasonable and fair minded men, and do not believe that you and I would have any dispute when it came to a final settlement. Of course expenses to be added."*

Such circumstances as these are apt to lend color to the sort of talk which reached Mr. Lewis and which caused him to look up Goodwin. The moral effect alone of providing court review would be inestimable; it would end all such ugly suspicions regarding the public service and would seldom be resorted to. When it was there would be no reversal of the Postmaster General, if he were right.

The pamphlet just mentioned says, among other things, that since the fraud order power has been in existence, over 2600 orders have been issued thereunder, and that there were only three cases which caused great agitation. This is not wholly satisfactory, because it does not tell, and perhaps there is no way to find out, how many "investigations," threatening fraud orders have resulted in none being issued, or how many victims have been bled to forestall them or to lift them after they have been issued, if it be true that there has been such traffic.

Side-Light No. 2.

When the fraud order was issued against the People's Bank, it of course stamped every one of the 2700 stockholders a fraud, since they were partners in it. Many of them realized the situation and were indignant, but more especially of course because it was likely to destroy the value of their stock. One of the stockholders, himself a banker, located in Carlisle, Ark., was emphatic and active in his denunciation of the inspectors and the fraud order; he made an effort to arouse Congress to investigate, sending a letter to each member. He said to them: "The Postoffice Department has two pamphlets to send out to explain this fraud order. When I first received these pamphlets I naturally supposed there was some reason for said order; but I had $3500. stock in said Bank and my interest impelled me to a careful investigation, and I soon lost all faith in those two pamphlets, for it seemed to me they were trying to justify an act that would not stand a full investigation in the bright sunlight of truth, under the square deal rule. What right has my Government to ruin my investment? Thousands of intelligent stockholders are asking the same question. If the Postoffice inspectors are honest, they cannot object to have their work inspected."

Shortly after the sending of these letters to the Members of Congress, this banker received a call from a

postoffice inspector who invaded his home and threatened him with a fraud order and arrest if he did not sign some kind of a statement which the inspector prepared. This man informed Lewis' attorneys of this and asked if a fraud order could be issued against him for refusing to sign the statement and if he could be arrested. The attorneys wanted him to make an affidavit of the inspector's threat but he replied that he was afraid to do so, saying: "The Inspectors might try to take their spite out on me and might prefer "secret" charges against me which might be "sufficient" to the Postmaster General, and, some fine morning, I might wake up with a fraud against me."

This circumstance is related simply for its value in a consideration of the uses to which the fraud order power may be put.

Side-Light No. 3.

Lewis informed the writer of this book that when the investigation of the bank by the Postoffice inspectors took place and the notice of the hearing came, he had little conception of what it all meant. He did not really know the meaning of a fraud order or what it amounted to. To insure against any mistake he had a prominent Member of Congress call upon Postmaster General Cortelyou and secure that official's promise that

he would, before taking any action, give Lewis and the bank Directors a hearing before himself. The fraud order, however, was issued without keeping that promise. Lewis says that the worst he expected from the proceedings of the Department was that the Bank would have to correct some of its ways of doing business to conform to the postal laws of which he was ignorant and which, if violated, was unintentional.

Following the action of the Department on the Bank Lewis engaged the Editor of the "American Banker" published in New York to come to St. Louis and go over the affairs of the Bank and report what, if anything, he could find that was contrary to law or good business principles. This man refused to take the matter up unless he were given a free hand to speak out without reserve in criticism of anything about the Bank of which he might not approve. That was promptly agreed to and he was given access to every detail. His report exonerated the Bank from any wrongdoing and condemned the action of the Postoffice Department. The following is one paragraph taken from his lengthy report:

The intent of Congress in empowering the Postmaster-General to issue Fraud Orders in certain cases has been perverted and made to subserve other ends than that for which it was designed. The office of the State Superintendents of Banks has been usurped by local post-office inspectors and the usurpat-

ions have been employed to ruin a meritorious enterprise and destroy the resources and credit of an innocent man. The Postmaster-General has been imposed upon to the extent of inducing him to issue warning circulars concerning a case which has never been tried before a court of law. The whole story is one of shameful intrigue and persecution; one that should have been impossible in a free country and one that when fully digested can scarcely fail to weaken that confidence in the security of our laws and institutions upon which our commercial affairs have hitherto reposed."

When this Editor gentleman returned to New York to resume his duty he was relieved of his position. This circumstance is related simply for what it is worth as an indication of whether the powerful "system" might be behind the Postmaster General in the fraud order business.

Side-Light No. 4.

During the siege upon the Lewis enterprises, matters were carried with a high hand in St. Louis and it was plainly evident that it was a dangerous thing to so much as speak to Lewis on the public street. If a man were seen talking to him, he was blacklisted in the Post-office. Lewis had to do business somehow, and part of it was with the Missouri-Lincoln Trust Company. He had arranged with that Company for the transfer of the stock in the bank. When this was learned by the local inspectors, they called upon the Trust Company,

according to report, in a body, and threatened it with a fraud order if it did this business for Lewis. This call resulted, it is said, in starting a run on the Trust Company and from that day its business declined. Later it went out of commission altogether. Of the loss, if any, to stockholders and others in this case, the writer has no information. The circumstance is simply related for what it is worth as one of the lights of the case.

Side-Light No. 6.

The tell-tale "concerted action" telegram of the Inspector-in-Charge is dated May 31st, 1905. Up to that time Lewis had no word at all from the Department as to what action was taken on the inspectors' report which reached there May 20th. He had no thought at that time, he says, that it would really reach the point of the bank being cited to appear and defend itself against the fraud order being issued. For all he knew, nothing more would be done. On the same day, namely, May 31st, 1905, the *St. Louis Post-Dispatch* appeared devoting a couple of pages in display type with flaming head-lines, to the whole case, setting forth in detail all of Lewis' affairs. Substantially it was the inspectors' report, published broadcast. The real reason for giving out this report of the inspectors for publication in the press, could not be otherwise than to prepare the public mind in St.

Louis for what was coming. Within the next day or so, Lewis received his notice of a hearing to be given him at the Department on June 16th. This circumstance will have added significance from the fact that even Congress in asking for papers from the Postoffice Department is refused the inspectors' reports on the ground that it is "incompatible with the public interest" to furnish them. This is a circumstance where apparently it was *compatible* with the authorities' interest to publish a certain report or the substance of it, to pave the way for the deed which was to be committed.

Side-Light No. 7.

A circumstance of more than ordinary interest is that of a "Receiver" who was appointed for the People's Bank after the fraud order which took effect Saturday, July 9th, 1905. In some way the local postoffice officials "co-operating" with the state authorities, secured an order of a court the next day, Sunday, for the appointment of this Receiver. At that time the bank had available one million, six-hundred thousand dollars, five times the total amount of its liabilities. There was no insolvency or other condition warranting the appointment of the Receiver. Lewis promptly applied to the same court for relief from the oppression and the Receiver-gentleman left hastily. The court found its own

appointment of him unlawful and unauthorized when made aware of the true facts. It took six days to bring about this change and it is well that it did not take longer for this party was a "Receiver" in every sense of the word and if he had been allowed to "receive" long enough, it is doubtful if there would have been anything left for anyone else to receive. His system was a wonder; it worked while even the postal inspectors slept. His fee was two thousand dollars a day and "expenses." No doubt he considered it desirable to "make hay" while the Postmaster General's sun was shining on this unfortunate bank.

According to Lewis, this Receiver had made several trips to Washington and had had conferences at the Department. The Postmaster General announced that the postal authorities would co-operate with the state officials in winding up the bank's affairs. This, like many other things in this connection, was a new duty for postal officials but the scheme for winding up the bank was working out on schedule. The fact that it was sound and solvent made no difference; neither did it make any difference that the state authorities had given it a clean bill of health at the very time the Postmaster General was raiding it. (See exhibit No. 6.)

CONCERNING THE PUBLISHING COMPANY.

Side-Lights on the Case.

The field agents were not aware of the condition of things in the Department. Apparently the Postmaster General had not informed them that his Third Assistant was not *concerting,* and how embarrassed he was at not being able to command him,—or that the failure to secure action by the Department was because of that official's insistance that justice be done. Not being aware of these matters, the local Postmaster and the postal inspectors through him, were writing the Third Assistant, making "recommendations" to act on the Lewis magazines, accompanied by tirades against Lewis and his enterprises. Each communication had been sent by the Third Assistant to the Postmaster General himself. It was his affair and the Third Assistant would have nothing to do with it. The local men did not know this. Nor did they know that the Postmaster General remained silent under the bombardment of communications sent him. So the failure of the Third Assistant to act on the repeated "recommendations" stirred the Postmaster (or rather the inspectors for they wrote his letters) and under date of April 23rd, 1906, the post-

master in his zeal, over-stepped the bounds. He intimated that there was some reason why Lewis was not attacking the Third Assistant in his papers. He had, he said, maligned every person connected with the case, including judges on the bench and the Postmaster General, excepting only the Third Assistant. That, to his mind was a suspicious circumstance, hence his letter insinuated and it drew forth from the Third Assistant a sharp rejoiner. This letter of April 23rd, from the Postmaster and the reply thereto, of April 27th, are printed in full in the Appendix* for those who are interested in thoroughly reading up on the case.

Side-Light No. 2.

Lewis' *Woman's National Daily* was born in November, 1906, in the thick of the fight. It, of course, had to be admitted to the mails at newspaper rates in order to exist. The application for entry passed through the local Postmaster and on to the Department where the entry is made. Here again the inspectors got into the case, a very unusual circumstance. They set about to "make a case" against the Daily and they rendered a report and "recommended." On every point they argued and decided that Lewis had no right to entry for this Daily. When the papers reached Washington, the

*See exhibits Nos. 13 and 14.

Third Assistant who was in charge of this branch of administration, was obliged to discard the inspectors' biased report. The result was that the Daily was admitted as other newspapers are. The record will speak for itself in any investigation to determine whether this is contributory evidence to there being a conspiracy to ruin Lewis and his enterprises, as he alleges.

Side-Light No. 3.

Following the October, 1905 investigation by the postal inspectors, into the subscription lists to the magazines, which Lewis did not believe was really designed to get the truth in the matter, he selected a number of reputable citizens of St. Louis and organized a "citizens committee" for the purpose of ascertaining the exact facts. The results were to be published. The plan was carried out and in February 1906 the committee reported. What this citizens' committee found was subsequently re-found and reported by the Third Assistant's commission, sent out after the hearing April 30th, and May 1st, 1906, so that there were two commissions' investigations, one sustaining the other as to the lists of subscribers. But mark you, the Postmaster General on March 4th, 1907 ruled both magazines out of the second class on the ground that they did not have legitimate lists of subscribers, basing his ruling upon the post-

master's and postal inspectors' reports which were estimates and guesses based upon the color of the wrapper used, rotten rubber bands, a count of subscription cards, etc., rather than upon the truth, actually ascertained by two counts of the written subscription orders themselves.

It was regarded by the Postmaster General as a suspicious circumstance that the postal commission, appointed after the hearing April 30th, and May 1st, 1906, found substantially the same conditions as the Citizens' committee appointed by Lewis. It could not be otherwise, since if the subscription orders existed to be counted and were counted accurately, the findings of both commissions must necessarily be the same.

A Side-Light on the Legal End.

The United States District Attorney who co-operated with the agents of the Postmaster General and secured the false indictment against Lewis and two others for defrauding the United States of postage on his magazines, was subsequently promoted to a United States Judgeship. The writer does not want to believe that this promotion was a reward for the sacrifice of his professional honor in securing that indictment. The fact remains, however, that the indictment was secured and that it was signed by him and that it was false and

dishonest. The circumstance of his subsequent promotion is simply related for what it is worth in the whole scheme of this wretched outrage. Whether or not it be true that the promotion was a reward for this work, how can such a man administer justice.

This false indictment against Lewis was subsequently dismissed by the court on a demurrer filed by Lewis' Attorney. But following that, the new District Attorney, the successor to the one now on the bench, in co-operation with the agents of the Postmaster General, secured on July 6th, 1907, another indictment to the same effect. This, like the first, was dishonest and false because it charges conditions of law and laws violated which do not exist. It was false and perfidious to so indict these three men for such an alleged crime. A real lawyer, one with a proper sense of professional honor in him, would never have been a party to such an outrage upon an American citizen. This second indictment has so far not come to trial, or been attacked on demeanor.

A Side-Light on Lewis Personally.

On February 22nd, 1906, leading citizens of St. Louis, bankers, attorneys, brokers, public men, merchants, publishers and others, petitioned the Postmaster General to lift the fraud order from Lewis personally and he did. Just one year from the date it was im-

posed, it was lifted: but as to the bank, it remains to this day. During the pendency of the fraud order on Lewis personally, he could not receive any personal mail at all. Thousands throughout the country had so identified him with his papers that they never thought of using his official title, as President of the Publishing Company. Therefore, thousands of letters addressed to him by name nearly all on magazine business and many no doubt containing money for subscriptions, were returned or disposed of, although they were not really intended for Lewis personally. He could receive mail addressed to him as President of the Publishing Company.

In this connection it is of interest that at the time of the issuance of the fraud order, Lewis' parents were traveling abroad from place to place; they were sending their son in St. Louis messages of remembrance, letters, picture cards, etc. All these were marked "fraudulent" and disposed of. He was not allowed to receive one because of being addressed to him as a private citizen.

A Side-Light on the Local Postmaster.

When the fraud order was issued July 6th, 1905, the quantities of mail held up in the postoffice were stamped "fraudulent" and disposed of. Supposedly this and all that was afterwards received, was returned to the senders.

Because of the methods of this Postmaster, it is a question in Lewis' mind, whether all the mail was honestly returned. As this book goes to print the Postmaster rests under the implication of mismanagement of his office, because of defalcations by his employes, which, his critics say, could have been avoided had he given attention more properly to his real postal duties, instead of devoting his whole time to meddling with the business affairs of Lewis. Due to this and other evidence of his lack of appreciation of his true duty, it is a question whether the employes were properly impressed with the importance of honestly returning all of the valuable letters addressed to Lewis and the bank. If not, the effect, of course, upon those who lost valuable letters would be to charge the loss to Lewis and not to the Postal service. In this way the public impression that Lewis was dishonest would be fostered.

An Amusing Side-Light.

This great American outrage was not without some amusing incidents. One of them is this: Lewis, in order to discover if he could, the inspiration for the attacks upon him and his enterprises and the persistency of the authorities' hounding, employed a detective of his own. He decided that it was a good thing to fight the devil with fire. He equipped his man with money

and means to get in with the local officials. To get the entry was not very difficult. The local Postmaster was also the local agent for an adding machine company.,

One day he heard of a man who was looking for adding machines; he had visions. "Adding machines! Might want several hundred of 'em! Gracious, what a find! Where is he; don't let him get away? Why, how do you do Mr. Baker. Glad to know you. Come in and see me. Come often; like to have you take dinner with me at my home—meet my family. Adding machines,—why, I have 'em; the best in the world, nothing like 'em anywhere for the money. Come right up any time. Trouble to show 'em? Pshaw, no. Call on me at the postoffice—anywhere, anytime. Might inconvenience me? Not a bit of it. Come any time and often; glad to see you; you will always be welcome."

The sometime-Postmaster-sometime-adding-machine-agent fell over himself in his efforts to be "nice" to "Mr. Baker" and Mr. Baker was *nice* to him. He did buy one adding machine *on trial.* That adding machine now reposes in Lewis' office. If it suited Mr. Baker's brother, who had a large business, he might want several hundred—See? The prospect was too much for the adding machine agent. Literally he fell upon "Mr. Baker's" neck and couldn't do half enough for him. Command him? Why, bless you, for anything! "Don't stand on ceremony. Come and see me; come often." And Baker

did come often. He saw him day after day for nearly three months and this Postmaster-adding-machine-agent had no secrets from the man who might, if the first machine suited, buy several hundred more. The prospect of dividends was staggering.

The postmaster completely unbosomed himself and the postal inspectors were more than friendly; they had no secrets from their good friend Baker. He got the inside of things generally; the officials admitted that they were receiving instructions from Washington to use every effort to destroy Lewis. The postmaster stated that he had been scolded ("given hell") for taking so long about it.

The writer has read "Mr. Baker's" daily reports to Lewis and they may be described as rich. It is impossible in a work of this kind to do more than refer to the circumstance. They show up how the detective manoeuvered to become acquainted and intimate with the local postal authorities and how he accomplished it. How he visited some of them in their homes; went on pleasure trips with them; took the crowd motoring frequently, and how he thoroughly wined and dined them from day to day." "Mr. Baker' posed as a man of means with no particular business to occupy him and he was very free with his money. He was out for a good time. These local postal gentlemen will no doubt recall the many pleasant times they had at the kindly "Mr. Baker's" ex-

pense (Lewis' expense) during their three months *intimacy* with him. Many of "Mr. Baker's" reports are in affidavit form. He was clever enough in material matters to secure corroborative testimony.

A Special Circumstance, Relating to the Whole Case.

The citizens of St. Louis were highly incensed at the conduct of the local postal officials toward Lewis. They could not understand it and they took action, and appointed a committee, to go to Washington under the constitutional right of the people to petition for redress for grievances, and lay the matter before the Chief Magistrate. The committee, although representing seventeen thousand business men, was denied an audience. The statement was given out that the Chief Magistrate knew all about the case. The Postmaster General had his ear, and it seemed that he was satisfied with what he told him; he apparently did not get but one side of the case. However, from that it appeared that his mind was made up. This was before Mr. Cortelyou was "discovered" in the double shuffle on the delegate proposition.

An Item of Interest.

During the siege upon the Lewis enterprises, the authorities' side of the case was kept constantly before

the public in the newspapers. This was the purpose of the numerous pamphlets, etc., printed in violation of law. It is a matter of interest that by actual measurement more space was devoted to the case in the public prints, that is to say to the official side of the case, than was devoted to the entire Spanish War. It is only of late that some writers of courage have been looking into the matter from the other side.

A Side-Light on the Postoffice Inspector Problem.

An interesting circumstance which illustrates the extent to which the power and authority of Postoffice Inspectors has been extended is found in the St. Louis Globe-Democrat of September 17th, 1907. The following is quoted from a three quarter column article:

> "United States Postoffice Inspectors, assisted by St. Louis detectives, raided four Chinese companies yesterday after an investigation disclosing the existence of the headquarters of an alleged lottery in St. Louis, with correspondents in every part of the world. Twenty-seven Celestials were caught by the drag-net, four of whom are held under $500 bond, each charged with using the mails to further a lottery scheme. Evidence was secured which the post office inspectors consider strong. The stores or companies raided are at 722 Market Street, and 14, 16 and 25 South Eighth Street.
>
> Letters were secured which prove that St. Louis Chinamen maintained a lottery whose correspond-

ents live in nearly every quarter of the globe. Letters from Mexico, Cuba, China, Canada and South America were confiscated. Gambling and lottery paraphernalia of every description were also taken in the raid. Three patrol wagon loads of the prisoners were taken to the Federal Building, where they were given a preliminary examination before Post Office Inspector Fulton."

This is a construction of the postoffice and post-roads clause of the Constitution with a vengeance. Here a postal inspector, authorized by law for the purpose of checking up postmasters' accounts, looking after the needs of the service, discovering mail depredations, etc., assumes to operate his force, mark you, *assisted by the St. Louis detectives,* to raid private establishments and with a drag-net arrest twenty-seven men, seize and confiscate their letters and property; and otherwise usurp the functions of the legal Department. Then, later he sits as a magistrate and gives these arrested men a "preliminary examination." Well, in the language of the street, isn't that "going some"? What next?

It would seem as though the properly constituted officers of the Department of Justice were being side tracked in the zeal of the postal officials to get into the spotlight. It is interesting to observe that while this extension of power and authority in postal inspectors was going on in St. Louis, shortages and defalcations were taking place in the postal affairs at the local postoffice.

Apparently with these new responsibilities weighing upon them, the inspectors were unable to look after such minor matters.

It looks, too, as though this new power and authority assumed, for there is no law for it, has the approval of the Department. The press accounts under date of January 13th, 1907, are to the effect that "Mr. Fulton is highly esteemed at the Department for what he has done. There is nothing for him," says the Postmaster General, "but praise."

This announcement followed a report that Fulton would be displaced at St. Louis. Taken in connection with remarks credited to Fulton himself, that he knew too much of what was behind the Lewis case to be disturbed, it has some significance.

CHAPTER XII.

A Close Personal View.

To fill the position of Postmaster General of the United States, a man must have stalwart courage, experience in large affairs, intellectuality, breadth and power within himself to determine from the high plane of his moral obligation what is right and what is wrong to be done, under the extensive power and discretion given him by law; and he must be too forceful to be swerved by any influence from the right as he sees it—in short, he must be a man on a large scale, for he is the head of the greatest human organization in the world, and every act of his is an act for all the people. Such a man will obey no command to execute a function of his office which his conscience does not approve.

When it does happen that a man lacking proper qualifications is appointed, the result is that he conducts the great Department on the scale of himself, for the same reason that water does not rise above its level. His conscience is but the reflection of those who can command him; and the contemplation of his great powers and au-

thority carries him away, and unrestrained himself his subordinates run wild.

That is precisely the truth in regard to postal matters under the administration of George B. Cortelyou.

This story must now, in order to serve its purpose well, speak out plainly, calling a spade a spade, mincing no words in disclosing the true situation, disagreeable though it may be. What follows is strictly necessary to the import of the case as a whole. ,

When Mr. Cortelyou was appointed Postmaster General, every one who really knew him knew that he had no genuine qualification for that position; by nature and by training he was marked a man to serve, not to command. He was without intellectual fitness and without those native elements of character which would permit him to measure up to the high station. It was indeed too true that the gage of the position was not in the man. He in reality had no adequate conception of its immense responsibilities, its dignity and its relation to the people and the people's laws. Under him the great postal system lost much of its idealization by the people; if he had been allowed to continue long enough it would eventually have reached his level.

Every Postmaster General until Mr. Cortelyou transacted all the public business in the great square room of the suite of executive offices, in full view of all who came on business or otherwise. As people came they

were ushered in to take seats about the place and await their turn getting to the head of the Department. Every one in the great room could hear and see all that was going on, just as it should be in such an office—the public business transacted in the open.

On one side of this great room is a smaller one, called a retiring or private room. It is a place to which the Postmaster General may withdraw if occasionally he has some private business which may not conveniently be transacted openly. This retiring room was seldom, almost never used.

Mr. Cortelyou did not follow the open daylight methods of his predecessors; far from it. He was sworn in in the big room, but after that he did not use the place. He withdrew into the little room on the side, closed up the doors and placed a sentinel on the outside, and as long as he remained Postmaster General he was sealed up there, out of hearing, out of view—in the dark. No person was allowed to know what he was doing or to hear what he was saying. Secrecy took the place of openness. To get to him at all it was necessary in most cases to give advance notice and it was arranged that parties coming and going should not meet.

When some person came to see Mr. Cortelyou he was ushered into a room on the side and when the coast was clear he was admitted to the inner sanctum; but not until the man ahead of him had been let out of

another door and gotten away through another passage. Matters were so handled that neither of two persons coming at the same time (unless it was on the same mission and both were to enter at once) could tell whether the other saw Mr. Cortelyou. One was ushered into one room and one into another. Neither one saw the other after that separation. There was about the whole place an atmosphere of stealth; every visit seemed to be clandestine—on tip-toe.

Under all previous Postmaster's General one usher was sufficient; Mr. Cortelyou required two to engineer the coming and going from his star chamber.

This retirement to the dark, out of hearing and out of the light is a characteristic of the man; lifted as he was to a position far beyond his talents and being without the native genius to rise to the occasion, he naturally feared the open, feared the light, feared scrutiny. Silence and mystery were his strong points. He was called and he was cartooned as a sphinx. He was clever at looking wise and saying little lest he be found out. He had it reduced to a fine art that would deceive the Creator Himself.

Somehow Mr. Cortelyou got the reputation for big things, but as Shakespeare says "Reputation is oft' got without merit." The subservient press is responsible for this deception of the people.

It was under Mr. Cortelyou's administration that the

once highly honored position of Postoffice Inspector, field representative of the Postmaster General, came to be regarded as it is now, a national plague. Now it is called a spy system. This is due to the character of work set for these men of late years. Instead of policing the service and perfecting it, giving their attention to the real business for which they were intended, keeping within proper limits, they are now unrestrained by law and have come to be used under the pretext of hunting down fraud in "making cases" and securing the bases for "recommendations" and indictments to carry out the purposes of those who work in the dark behind closed doors.

Once a great public service becomes set in such a groove, it takes a revolution to work a reform. It will come only when there is a great strong man with the proper qualifications at the head of this Department. Such a man will study the laws enacted for his guidance, know the limits of his authority and power and satisfied with that, he will not seek to enlarge upon it. He will take hold of this degraded and debauched inspectors' service, which represents him in the field and shake it out as he would a garment infested with disease germs.

This deplorable un-American state of affairs in the postal establishment—this star chamber, this secrecy, this gum-shoe work, this suspicion for evidence, this assumption of unauthorized power, and authority, this not

keeping within proper limits, this susceptibility to flattery, plausibly esteeming the man to be great and right, when knowing him to be small and wrong, all to curry favor with him for personal advancement and all impenetrable to him—in short, this having an incapable man, a man lacking breadth and real fitness, with no proper sense of the moral obligation at the highest point of command and the effect of it all upon the public service at large, that is responsible for the misdeeds told in the foregoing chapters.

The Government could never have been so humiliated and disgraced under any one of the other men who have held the office of Postmaster General within the last hundred years. History must record this man Cortelyou a freak of singular and unaccountable circumstance—three times a cabinet officer, but a nonentity in each; a man to whom openness and frankness is stranger; a man whose light is wholly reflected; a man totally lacking the power of initiative, a man born to be mastered—a beggar mounted he rode his horse to death. And, now note the immutability of fate, as this book goes to print the press accounts are to the effect that this man has been discovered in double dealing to the hand that raised him. "By their fruits shall ye know them."

It is in the immutable law of compensation that the Nation must ultimately pay the penalty of filling its positions of power and authority with favorites, syco-

phants and incompetents, by depreciation of the national standard.

Once more it is repeated here for emphasis that this review of Mr. Cortelyou personally is given only because of the duty in hand. The conditions responsible for the wrongs recorded could not be made clear and complete without exposing the true seat of responsibility; it had to be told—just as a cankerous growth requires the surgeon's knife at the root if the operation is to be effective and permanent.

With this altogether necessary light thrown upon this man Cortelyou, the reader will better understand what a leading New York newspaper meant when it spoke on his appointment to the Secretaryship to the Treasury as follows:

> "But—Hamilton, Gallatin, Chase, Sherman—and at last in their place Cortelyou the Collector!
>
> "It was Cortelyou upon whose assurances Mr. Roosevelt relied when he denied with heat the true statement of Judge Parker in 1904 that corporations had bought with campaign contributions the valuable gratitude of the Republican national commitee. It was Cortelyou who accepted the money stolen from insurance companies and given to him to establish, in Platt's cynical phrase, a 'moral obligation' upon the dominant party.
>
> "Cortelyou should not be in the cabinet. He should not be in public life at all. To make him

secretary of the treasury will be a needless affront to the American people."

And what another New York paper meant when it said:

"As to the cabinet changes in general, *'facile descensus Averni'*—the air line route to perdition.

"In particular, as to Mr. George B. Cortelyou—from receiving the stolen funds of the widows and orphans to the august seat of Alexander Hamilton! —the Republicans of this city can only murmur a horrified whisper of why now? * * * We are palsied, petrified."

And what a leading Western paper meant when it said:

"As secretary of the treasury, he is as much out of place as a ribbon salesman would be in command of a battleship."

And what a far Western paper meant when among other things in speaking of his presidential aspirations it spoke as follows:

"There was a savor of meanness in Mr. Cortelyou's clandestine campaign. His quarrel with the President for preferring Mr. Taft was pettish. Is the retiring Secretary of the Treasury the spoiled child of the Cabinet? Has his facile career made him believe that he can have everything he wants merely by asking for it? Unless the signs are all deceptive, Mr. Cortelyou thinks he is a much greater man than anybody else thinks he is. The illusion is not an uncommon one with men of small capacity. They advance rapidly to a certain point

and are there astonished to find themselves unaccountably checked. He has lived for years in an atmosphere of flunkeyism, official insincerity, social hypocrisy, and the consequence of it all is that he has lost his sense of values. Nobody thinks enough of him even to rail at him. An evanescent phenomenon of politics with no substantial hold on the life of the people, he vanishes into nothingness as from nothingness he came, and there will be no mourning for his disappearance."

And what another Western newspaper meant when it spoke of Mr. Cortelyou as follows:

"Put a beggar on horseback and he will ride over you. This fellow Cortelyou, who has been slobbered over and mollycoddled by McKinley and Roosevelt, for years, has started in to buy and own this government. He is loaning government money to the Wall Street gang of robbers with the understanding that they will in return put up the money to make him president to succeed Roosevelt. When it is demonstrated that a man of Cortelyou's calibre can be elected president of this country with or without buying the office, we will foreswear our citizenship and leave the country by the first train or boat, and will ask God Almighty to forgive us for spending three and a half years in the army in defense of its flag. If Roosevelt dosen't kick that fellow out of the office of secretary of the treasury and send him back to the ranks, we will forever afterwards think he is a three story ass."

Much more editorial comment of like tenor, might be furnished, but space is limited.

"Let There Be Light."

The Postoffice establishment more than any other is an institution of the people and all of its transactions are for the people; they should be public. It should be impossible to conceal any paper or any act from scrutiny. It is a perversion of the spirit and purpose of the law to conceal public affairs from the public, for how may the people who make the laws, know that their servants are honestly performing their duties if they be not allowed to overlook them. All the Government scandals which have shocked the nation in recent years would have been impossible and what is recorded in this book could never have happened, if the light of day had been permitted in the dark places—behind the closed doors, into the star chamber. In the light rascals do not thrive.

How inconsistent it is to demand publicity in private corporate affairs while the Government itself conducts its own business in secret; its books and papers are held to be "confidential" and it is "incompatible with the public interest" to disclose, often to Congress itself, the contents of the files.

True honesty is never afraid of the light; rascality always. The star chamber and secret process is the mother of graft and makes thieves of honest men. An

ounce of prevention is still worth a pound of cure. One newspaper reporter with freedom to inquire and a fearless publisher is of more real value to the country than a hundred secret service detectives.

It needs no new law to secure openness in the postal matters. There is not one single act required of the Postmaster General or of any of his subordinates down to the very lowest, which necessitates any secrecy whatever. We shall have a much better administration of the public business in the postal establishment when the fallacious theory of secrecy is abandoned, root and branch, and the spirit and purpose of existing laws are observed.

CHAPTER XIII.

Some Observations in the Form of Inquiries.

Lewis has charged in libel suits brought against the postal officials personally, that their conduct toward him is the work of a conspiracy to effect his ruin, meaning that they used the powers of their offices illegitimately. He has also charged in his publications that there was a conspiracy operating against him. The motive for such a conspiracy, he does not state with positiveness but intimates that the express companies were, in all probability, behind it; and that they were working through Postmaster General Cortelyou. If that be true the motive was, in all likelihood, the desire to cut down the Bank on account of its certified check system, which would furnish the people with a free means of exchange of money, and proportionately as it was used, would cut off the express companies revenue from their Money Order business. Or, it might be the banks. Their revenue from the exchange system would be similarly effected, but to a less extent. Or, it might be both these interests working together.

What do we find in the history of the case as given to support the conspiracy charge? If true, there must have been a motive. The writer can not state what the motive was or even allege positively that there was a conspiracy; but he does state that it is his belief that there was a conspiracy and that this can be proven from the records themselves. The following items each by itself and all taken together, are the basis for that belief:

Why did not the Postmaster General let the state authorities handle the People's Bank case, if there was something wrong with it? It was a state bank, organized under state laws.

Why was the Postmaster General so solicitous in the case of this bank alone, to protect the public? No one had lost a cent through it or through Lewis.

Why has the Postmaster General never before or since investigated any bank? All use the mails and many have the same scheme of depositing by mail.

Why was the letter of the Secretary of State of Missouri dated June 12th, 1905 and sent to the inspector in good time, giving the bank a clean bill of health as to compliance with state laws, not mentioned in the

pamphlet issued July 9th in defense of the fraud order and sent out to influence public opinion? Was it omitted because it knocked the bottom out of the case against the bank?

Why was that pamphlet issued at all? The law prohibits such printing; but being issued, why did it not give both sides of the case and let the public decide for itself?

Why was the pamphlet of July 9th issued simultaneous with the fraud order which took effect that day? The copy for the printer must have been out well in advance of the issuance. Does this not look as if the whole thing was cut and dried and the hearing and all the rest were mere form?

Why did the Postmaster General consider postoffice inspectors qualified to examine banks and determine as to whether they complied with the law or were being managed properly? The civil service examination they take to enter the service does not include any test of their qualifications as bankers or managers or examiners of banks; it is confined to postal matters.

Why did the Assistant Attorney General, acting for the Postmaster General, refuse at the hearing to let

Lewis know who "complained" against him? Was it because there was no complaint except that of the postoffice inspectors, and they being the direct agents of the Postmaster General, put him in the position of complaining to himself, which, if it got out, would look ridiculous?

Why did Assistant Attorney General, acting for the Postmaster General, refuse to let Lewis see the "evidence" against him? Was it because there was none, except that which had been gotten from his own establishment by the inspectors, and it would not stand scrutiny?

Why were the indictments found against Lewis for devising a scheme to defraud, when there was no one to testify before the grand jury, or trial jury either, to having been defrauded of a cent?

Why did the government delay the trial of every one of the indictments for nearly two years when the Constitutional right of every citizen is a speedy trial when charged? Was it not that the indictments could be held over Lewis and published from time to time in the pamphlets in order to destroy his mercantile credit and generally discredit him with the public and so ruin his business by indirection, it being known all

along that there was no real evidence to support the indictments?

Why, when Lewis had forced the first indictment trial, did the agents of the Postmaster General send out those remarkable letters intended to coach the witnesses for the stand?

Why did the government not depend on the United States District Attorney to conduct this trial as all others? Was the special counsel, brought into the case at great expense to the tax payers, not because the government was taking a desperate chance in going to court at all and must gather together every power and influence to make the most, in the way of appearances, for a bad case, or what was no case at all?

Why, during the long three weeks of the trial, did five to ten postal officials sit in the front seats close to the bench and jury-box if it was not to impress the court and jury, by their presence, of the deep and unusual interest the Government had in the case? The law does not authorize payment for that sort of service; it was not a postal matter. The trial of the case should have been in the hands of the Department of Justice.

Why was it that the Inspector-in-Charge who conducted the campaign from the first against Lewis, was not put upon the witness stand? He was present every day of the trial. Was it that what the cross-examination might disclose was feared?

Why was the post office inspector's secret report upon the bank case given out for publication in the St. Louis Post-Dispatch in advance of the notice to Lewis that anything was found wrong with the bank? It is reported that the matter was in type for days, awaiting the proper moment to be published. It is the first instance in history where a confidential report of an inspector to the Postmaster General was ever given out, even to Congress on demand, it being held to be "incompatible with the public interest." Was it not to create in advance public sentiment unfavorable to Lewis so as to pave the way for what was to follow?

Why, after all, did the Postmaster General not tell Lewis what it was about the bank's affairs that he did not approve and give the man a chance to correct it, as he was willing and prayed for an opportunity to do, instead of ruthlessly cutting down a two and a half million institution in which twenty-seven thousand persons were interested as stockholders and many

more were depositors, because he could "legally justify" his act?

Why, when Lewis was given the hearing, June 17th, 1905, before the Third Assistant as the result of the inspector's report in May and the "concerted action" telegram of May 31st, 1905, and that official's decision of July 8th containing an elaborate analysis of the case, showing that there was no proper cause for action against the magazines, did the Postmaster General suppress the usual notice through the postmaster to Lewis, and so leave him without knowledge of how the matter on which he had been investigated and heard, had been decided? Was it not because, knowing he had failed in the first effort, a new campaign to strike down the magazines was to be inaugurated, and it was undesirable to have the future work complicated by any decision of record in the postoffice favorable to Lewis?

Why was it that shortly after the judgment of the Third Assistant on the June hearing, that there was no cause for action against the Lewis magazines, that the agents of the Postmaster General began a new onslaught on those publications? The Postmaster General had said in a letter of July 12th, that they should be left to take their course with others and if there

were anything wrong with them, they were to be treated under the rules applied generally.

Why was it that now the postmaster at St. Louis took up the matter and began writing letters, the first under date of November 11th, 1905 to the Third Assistant, all the while recommending, nay, demanding that the Lewis magazines be summarily dealt with according to his judgment? The postmaster has stated that he did not write any of those letters. They were written by the Postmaster General's men for him.

Why was it that these inspector-agents of the Postmaster General, failing in their first attempt to strike down the Lewis magazines, by the hand of the Third Assistant wrote, as the postmaster had admitted, all these letters that were sent in? Was it not just a new tack in a scheme to force the hand of the "proper" official to take action on the alleged grounds (rulings invented for this publisher alone) advanced now by the postmaster as his own, but in reality the work of the agents of the Postmaster General?

Why was it that, when the Third Assistant sent these letters of the postmaster, one after another, directly to the Postmaster General himself, each with a

formal letter of transmittal, calling attention to the breach of rules and the high-handed conduct of the postmaster, and the breach of the understanding that the Lewis magazines were to be treated as all others, and hinting that the sudden over-zeal of the postmaster and the course being followed was outrageous and bringing the Department into disrepute, and asking instructions each time, without exception, as to what course to pursue now that the decision of July 12th was violated—why was it that he (the Postmaster General) remained silent all the while; and why was that silence continued for so many months and as to so many letters from the Third Assistant each calling for an answer? Was it not because they exposed the purpose of the lawless work and he was afraid to show his hand?

Why was Lewis indicted for conspiring to defraud the Government of postage on his magazines on the representations of the postmaster, the inspectors and the United States District Attorney, to the grand jury, when the charge was false both as to law and evidence? No law was violated. Was it because the Postmaster General, or the interests behind him and working through him, proposed to railroad Lewis into jail somehow—law or no law, evidence or no evidence—to stop his mouth; or was it for the purpose of degrading

him still further, before the public by publishing in a Government pamphlet, as was done later, that he was "under indictment for defrauding the Government of Postage"? Who made the grand jury believe that a ruling was a statute in order to secure that indictment?

Why did the Postmaster hold up three hundred thousand copies (three car loads) of one of the Lewis magazines and confiscate them on the authority of the agents of the Postmaster General, in defiance of the law, making it a penal offense to delay, much less confiscate any mail matter?

Why were hundreds of dollars to pay postage on those three hundred thousand copies fraudulently taken from Lewis when it was never intended to give him any service for his money?

Why was it, when Lewis discovered the hold up of his mail a month after, and sent a sharp protest to the Department and the Third Assistant forwarded the communication direct to the Postmaster General with a letter of transmittal, calling attention to the importance and gravity of the matter, that the Postmaster General was silent, made no reply?

Why, if it were true that there was not enough postage paid on those three hundred thousand copies held up, was Lewis not advised of the amount short and allowed to pay it? That is the way other publishers and citizens are treated.

Why was Lewis indicted for not paying a rate of postage on these held up copies which the statute distinctly states is for "others than the publisher"? How was he to know when he was not informed that the postmaster was "construing" this statute to apply to him—a publisher?

Why, in defiance of law, was the postmaster's act, holding up for several days some three thousand of Lewis' letters, sanctioned and the letters released only when Lewis discovered the hold up and protested to the Department? There was no question of postage here. Were the Postmaster General's agents going through those letters as Lewis alleged? No other citizen's mail was ever so treated. Any other postmaster would have been removed, indicted and sent to jail.

Why did the Postmaster General institute "an exhaustive inquiry into the publishing methods of the Lewis Publishing Company," as the pamphlet issued

March 19th, 1907 stated was done? He had no lawful authority for instituting such an inquiry.

Why, having instituted such an inquiry, did the Postmaster General publicly, in a pamphlet printed in defiance of law, officially criticise those methods? He had no business experience to qualify him to decide whether these methods were right or whether they were wrong; and Congress has as yet passed no act authorizing the Postmaster General to regulate private business affairs; or making postal rates depend upon whether business methods are good or bad.

Why, during the entire term of Mr. Cortelyou, was the Lewis Publishing Company subjected to continuous investigations by postal inspectors? No other publishing company in the United States was so investigated during that period; and never before has any publishing company been investigated by post-office inspectors to learn whether its business was managed under rules which the Postmaster General would approve.

Why did the Postmaster General use all through this work of investigation of the publishing company, men who had no experience or training for it when

Congress had authorized a corps of special agents and they were specially trained for so much of that sort of work as the law authorizes?

Why, supposing all that the postal inspectors alleged concerning the Lewis magazines was true, were they taken out of their regular order for treatment? It is the only case of the kind ever managed by the Postmaster General in the history of the Department.

Why did the Postmaster General in his letter of March 4th, excluding both magazines from the publisher's rates, so suppressing them, state that his action was taken upon a hearing (April 30th, and May 1st 1906) required by law to be given before the right to mail can be taken away from any publisher, when it was not true and when he well knew it was not true? Was this not to "legally justify" his lawless act to the public which would not investigate deeply; and to create further public sentiment against Lewis, whom he thought had now been given a knock-out blow from which he would never sufficiently recover to be heard from again?

Why was it that the Postmaster General in his letter of March 4th, 1907, over-ruled the findings of the

special commission of sixty-five persons after more than three months' work to get the truth, and sustain the postmaster against Lewis when the postmaster was positively wrong and that had been shown? Was it not that without such a ruling the fraudulent indictment of Lewis and others would fall of its own weight of falsity—the "evidence" supporting the manufactured law being spoiled by the commission's findings.

Why in the pamphlet issued to the public, is it represented that Lewis was given a hearing on the question of whether his magazines had legitimate lists of subscribers, whether they were designed for advertising purposes and whether they were circulated at nominal rates, when that was utterly false and the Postmaster General knew it was false?

Why were so many pamphlets, printed in defiance of the law, issued? Were they not primarily designed to degrade Lewis in the public eye by putting him in a bad light as to his business methods and by holding him up to the world as "under indictment"?

Why did the Postmaster General take such personal interest in this one case and direct the field work from the beginning to the end for two years? Was it

because he thought that if left to the "proper" official to be handled in the ordinary course of the administration and under the laws and rulings generally applied, Lewis would be given the same treatment as other publishers?

Why, when ostensibly he turned the appeal of Lewis over to the Third Assistant, April 14th, 1906, to hear and decide whether the postmaster or Lewis were right in their dispute, did he, under cover of the Third Assistant's investigation, conduct another secret inquisition of his own, ordering that Lewis be deceived as to the presence of his men in the publishing establishment?

Why did the Postmaster General suspend the requirement of law that all publications should have legitimate lists of subscribers for a whole class having none at all, as he did July 9th, and then insist, as he did in his February 13th letter, that that very requirement should be rigidly enforced to the last dot against Lewis? Was it not that sort of favoritism to some and that sort of faithlessness to duty which caused all the scandal and loss to the Government in this class of mail matter?

Why did the Postmaster General feel called upon to decide this one case the last moment before he left the Postoffice Department to become Secretary of the Treasury? There were at least two hundred questions in relation to mail classification pending and all were turned over to his successor's administration. Might not the Lewis case have gone over too? .What was his haste to get the job done while he was Postmaster General?

Why, after all, if there was something wrong with the Lewis magazines, was the Publishing Company not told what it was and given a chance to correct the errors or irregularities, whatever they were, as Lewis had begged for an opportunity to do, rather than strike down his great business, which took years to build up and rather than throw hundreds of persons out of employment? Other publishers are given the opportunity to correct irregularities.

Why, if, as the United States Supreme Court has held, every act of the Postmaster General and of every one of his subordinates must be based upon some law, was it that so many laws were violated, and why was it that so much authority, founded upon no law, was assumed in this case?

Until these questions are answered satisfactorily, the suspicion that Conspiracy charge of Lewis, is true will continue to exist. That the conspiracy, if there was one, did not succeed is due to the indomitable spirit, pluck and grit of the man Lewis himself, and to the fact that he had money enough to spend to keep up such a long, hard fight against such terrible odds. Not one man in ten million but would have gone down.

CONCLUSION.

In writing this story the endeavor has been to state the facts accurately; and to recite the circumstances as they really occurred. It is a bill of particulars. Nothing is the result of imagination. There is no fiction. Nothing is taken for granted; no statement of a material fact, but the uncontrovertible evidence to sustain it is furnished; that is to say, the statute, law, document or paper in the Government files to support it is given in full or identified in the text or in the appendix.

The comment on the conduct and capacity of public officials is that only which is the privilege of any citizen. The writer was in a position to observe more closely and more constantly than is often possible. That part of the story which is a personal description of Mr. Cortelyou and his methods is regrettable, but it is indispensable to the correct conception of the case as a whole; to omit it would be like omitting a keystone to an arch. It is certain that the misdeeds here recorded could never have occurred with a man of real, not fictitious, strength and capacity, at the head of the Postal Establishment. The writer propounded the question to himself—"Shall this personal matter be omitted and the story be left deficient,

or shall it be written, waiving the questions of taste and ethics in the effort to produce the proper result? The decision was that, as whatever is to be done at all should be done well and the personal description being highly essential to completeness, it could not be omitted.

There is not one word in this book written in malice, pique, vindictiveness or feeling on the part of the writer. No doubt the contrary will be charged, but the answer is that if the story be true, that justifies it. But further than that, if it be true, it can be of no real importance whether the motive be good or bad. It is a public and not a private matter; and it is no response to charge that it is inspired by an unworthy motive. If it be not true, the writer is punishable under proper procedure in law; and that it is true, he is prepared to prove to any impartial tribunal.

The statutes and documents referred to and quoted in full, speak for themselves. All that space permitted to be given in full are so given; but to print them all in full would require fifty books the size of this.

This work would never have been undertaken but for a letter which Postmaster Cortelyou sent the Third Assistant at the last moment on March 4th, as he was leaving the Postoffice Department to be sworn in a few moments later as Secretary of the Treasury. It, like many of his actions in connection with this Lewis case, was treacherous and cowardly and executed in a way

and at a time when the man he maligned could have no opportunity to make answer to him officially, he being out of the Postmaster Generalship a moment after he struck. That letter had a definite purpose. It was to make it impossible for the writer, once out of office, to disclose what he knew about the case. It failed, as did the letter of February 13th, fail to force the Third Assistant to reverse what he believed to be a just and proper decision on the question given him to decide. The law was plain, and the facts had been ascertained beyond question. The final decision, dated March 2nd, 1907, speaks for itself; it may be submitted to any court for review, and the letter proposes that method to the Postmaster General.

The March 4th. letter of the Postmaster General is answered in the appendix; that is to say, the essential parts of it are given and answered in an open letter to Mr. Cortelyou. The complete document, however, is easily obtainable by any person who may care to pursue his inquiry further.

The publication of this book under all the circumstances is, therefore, a public duty, but it is no less a duty to the writer himself, personally. He could no longer make answer officially to the strike-from-behind-and run Postmaster General, but through this medium, an answer may be filed with the whole people to whom the writer was responsible for the trust he held.

The Postmaster General's letter was written in chagrin because he was unable to force the Third Assistant to subscribe to such infamous conduct as this book discloses. He was, therefore, compelled to use his own hand for those acts which in the whole scheme he had set to be done by the Third Assistant.

It is perfectly patent that, however favorable to Lewis the report of the special commission might be, the Third Assistant was expected to "construe" it against him. It was in the scheme that the St. Louis Postmaster was to be supported in his contention, regardless of the law and the facts; and it was the merest travesty of justice to make a show of giving the Third Assistant the question to decide when a judgment adverse to Lewis was the only one which would be accepted.

While in office the writer had something of a belief that the man Lewis was not altogether a good law-abiding citizen, and really that he was something of a highwayman. No one could live in the Postoffice Department during the long siege, with the atmosphere literally laden as it was, with the virus of hostility and other germs of taint, and not be inoculated with some such belief. For that reason he did not wish to associate his name with the Lewis case. In office he had done what he conceived to be his duty as a public officer, exercising quasi-judicial function, and to himself, defending his own honor and that of the Government, so far

as he was able. He was content to leave the rest to time; but the letter of March 4th. rendered that course impossible.

Before this work was undertaken, it was essential to investigate Lewis in order that the case might be developed in full and accurately. He must be studied critically at close range, in his home, at his business, in his personal habits, associations,—in every way; and he must be consulted on some matters.

It was of paramount importance to the story to discover what sort of man this was that the Government had been fighting so long and so persistently and who had been able to survive it all. Surely he was no ordinary character.

The writer did not find Lewis to be an evil-intentioned man. His home life was simple, refined and wholly up to the American ideal. His residence is within a stone's throw of the publishing plant. In his business he was surrounded by the cleanest and ablest of men. His ambition was to accomplish big things and he had done it more than once.

The worst that the writer feels justified in saying of Lewis is that he was, in the bank case, altogether too lavish in promises,—promises wholly unnecessary to make. Certainly it was not at all essential for him to put in dollar for dollar in bank stock. The people would have subscribed just the same, and it could make no

difference whatever with the value of the stock, who owned it. Neither was it necessary for him to make such iron-clad promises that no money could be borrowed from the bank by anyone connected with it. He or no one else could foresee that it would not come to pass to be advantageous to the depositors and stockholders of the bank to break that rule, as actually did happen. Yet these two promises—one of them made impossible to keep by Government action and the other made necessary to break by Government action—were the basis of the attack upon the Bank, and him. As to the Board of Directors that did not please the Postmaster General; all that need be said is that it satisfied the State.

No person was found who himself, or who knew any other person, who had lost a cent through Lewis; that is through any act over which he had control. The stockholders in the bank had lost 13 per cent of their money; but that was due to the government action, not Lewis. On the other hand, Lewis has undertaken to pay that 13 per cent although he is not under legal obligation to do so.

The legal advisor of Lewis in all his business transactions was an ex-Judge of the Supreme Court of the State, a man of highest standing and reputation, and those financially interested with him are men ranking as leaders in their lines in the great West,—all most rep-

utable. None of these circumstances comported with the idea of fraud, for how could men like these associate themselves with a dishonest scheme? And surely they must have known of its intent before they gave their names to it.

The story could not have been written without keeping Lewis present in the fore-ground pretty much all of the time for he personally was the cause and the object of the whole campaign. It is stated here again, however, that it is wholly immaterial who the man is—who is in the center of the stage—who is the Hamlet of the play; it may be Lewis, or it may be some one else. It is wholly immaterial too whether he be saint or sinner, good or bad —the question is: shall our Government officials obey the laws and the spirit of the laws, or may they be tyrants unrestrained.

If Lewis be a law-breaker, the writer does not defend him,—no right minded person does; but he and his institutions had as good a right to the protection of the country's laws as any, and to the spirit of justice and fair play in Government treatment of him and them.

This is a case of one citizen, where, to his injury, the laws for the protection of the individual were wantonly disregarded; where, to his injury, other laws were strained to cover matters plainly not within their contemplation; and where, to his injury, criminal laws were invented out of whole cloth—the man stood alone

in this whole country of boasted justice and fair play for all, without a single right the authorities would respect in their efforts to put an end to his business, and to railroad him into the penitentiary.

The courts of the land may still be depended upon to deal with wrong-doers in due course of law, with Lewis as with all others. It is not given in the Constitution or any statute for the Postmaster General to perform the functions of Congress and the courts or to refuse the intended protection of laws in order to punish one who has offended him. It is the business of the Postmaster General to administer the affairs of the Postal Establishment impartially, and to conduct it according to the intent and purpose of the statutes of Congress, which created it, and him, and all his power.

Upon the personal side of this matter, nothing more need be said than that the writer was in the thick of the whole wretched business. It was sought to use him as a tool; he revolted and threw his weight on the side of right and justice and the maintaining of the government honor. He succeeded only in checking progress for a while. The dreadful work had progressed so far that its consummation was the only salvation of those who prompted and promoted it. The contrary opinion of no man could be tolerated. If one had the hardihood to assume to have views of his own as to right and wrong, he must be gotten out of the way—ridden down.

His rebellion was punished with a blow meant to kill; dead men tell no tales. But he survived; hence this book. It speaks for itself.

So this story is written and it lays bare the boldest and meanest of crimes and the most flagrant immorality in public office; and enough evidence is furnished to impeach all those implicated, but the public need not look for that. Probably not now, but some time in the future the light will be turned on in this case. The responsibility for what the light shows will then be placed.

EXHIBITS.

Throughout this book reference is made to exhibits. They will be found in the following pages. The correspondence of the Bank, the Publishing Company and Mr. Lewis is printed by permission. The writer secured from the Company some views of its plant, interior and exterior, and they are given in the extreme back. They are merely to help illustrate to the reader the sacrificial nature of the official conduct in this case.

The exhibits given are a part of the evidence on which, with the writer's own personal knowledge of the case, the story is founded. Some of them are complete copies of original papers. Others are mere briefs or identifications of documents or records too lengthy to be given. These exhibits, as voluminous as they are, are but a small fraction of the papers in the official files of the Postoffice Department in relation to the Lewis case.

It is entirely proper to make these official papers public, but nevertheless legal advice was taken with a view to ascertaining whether any law existed which might prohibit their publication. None was found; nor is there any law which warrants the practice of making the records of the Postoffice Department secret and confidential, but even if there were such a law it is settled by court decisions and recognized by practice the world over that an administrative officer is entitled to copies of all the official papers in which he is concerned and which in his judgment may be necessary for the protection of his official record and personal reputation.

APPENDIX.

EXHIBIT NO. 0.

The following copy of resolutions adopted by the board of directors July 22, 1905, after the bank was struck down by the Postmaster General, was intended to have a place in the numbered exhibits which follow, in order that the reader might have the very fullest information to base his judgment of the case upon. It was overlooked until the paging of the book was made up. The only place left for it was on this page, intended to be left blank.

The men whose names are attached to these resolutions are leaders in their lines in the great west. Their standing is unquestioned, and their interests, independent of any connection with this bank or with Mr. Lewis, are very large.

The Postmaster General, who had no experience in the business world at all, declared the People's U. S. Bank a fraudulent scheme, basing his judgment on the report of his inspectors, who, like himself, had no business experience. Against that judgment the reader may balance the report and judgment of Alex. Del Mar, of the American Banker, who made an exhaustive inquiry into the whole matter, (See Side Light No. 3, page 176) and the judgment of these directors, men of highest standing and extensive business experience, the word of any one of whom is as good as a government bond:

Resolved, That the Board of Directors of the People's United States Bank express their confidence in Mr. Lewis' integrity and good intentions, and their sympathy with him in the war of persecution being waged upon him and his interests. After close business relationship with him for a considerable time, his associates in this Directory are convinced that he is an honest and sincere man, of rare and tireless energy, and that, so far from his bank project being a fraudulent scheme, we believe it embodies valuable and useful ideas, and that his efforts to promote its success were inspired by worthy and honorable purposes.

Resolved, That we deem it a grave subject for the consideration of the American people, how a bank like this, representing investments of more than two millions of dollars, may have its credit instantly destroyed by a despotic order of a federal officer without opportunity to know on what evidence it is condemned, and (as Judge McPherson, a federal judge of Red Oak, Iowa, has declared) without any possibility of review by the courts of our country. Such a condition of affairs involves an interpretation of our laws which we regard as a menace to the liberty and rights of every citizen. We protest against such interpretation, and we declare that this bank is not a scheme to defraud anyone, by any means, fraudulent or otherwise.

DIRECTORS:

THEO. F. MEYER, Pres. Meyer Bros. Drug Co.
W. F. CARTER, Director Missouri-Lincoln Trust Co.
LON V. STEPHENS, Ex-Gov. and Ex-Treas. State of Missouri.
JAMES F. COYLE, Coyle & Sargent.

EXHIBITS.

The following are the Laws of Congress in relation to the second class of mail matter (newspapers and periodicals) and the rates of postage thereon, when mailed by the publisher and when mailed by other than the publisher; the holding up of mail matter by postmasters, and the prohibition against printing any document or matter not authorized by law and necessary to the public business.

Exhibit No. 1.

Mailable matter of the second class shall embrace all newspapers and other periodical publications which are issued at stated intervals and as frequently as four times a year and are within the conditions named in sections twelve and fourteen (of this act). (Act of March 3, 1879.)

Note—Section twelve does not apply.

Sec. 14. The conditions upon which a publication shall be admitted to the second class are as follows:

First.—It must regularly be issued at stated intervals, as frequently as four times a year, and bear a date of issue, and be numbered consecutively.

Second.—It must be issued from a known office of publication.

Third.—It must be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications.

Fourth.—It must be originated and published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and having a legitimate list of subscribers: *Provided, however,* That nothing herein contained shall be so construed as to admit to the second class rate regular publications designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates. (Act of March 3, 1879.)

POSTAGE RATES.

All publications of the second class x x x x x, when sent by the publisher thereof, and from the office of publication, including sample copies, or when sent from a news agency to actual subscribers thereto, or to other news agents, shall x x x x be entitled to transmission through the mails at one cent a pound or a fraction thereof, such postage to be prepaid as now provided by law. (Act of March 3, 1885.)

Note—The omitted words of the statute have no bearing upon this case.

The rate of postage on newspaper and periodical publications of the second class, when sent by others than the publisher or news agent, shall be one cent for each four ounces or fractional part thereof, and shall be fully prepaid by postage stamps affixed to said matter. (Act of June 9, 1884.)

When any publication has been accorded second-class mail privileges, the same shall not be suspended or annulled until a hearing shall have been granted to the parties interested. (Act of March 3, 1901).

HOLDING UP MAIL.

Any postmaster who shall unlawfully detain in his office any letter or other mail matter, the posting of which is not prohibited by law, with intent to prevent the arrival and

delivery of the same to the person to whom it is addressed, shall be punishable by a fine of not more than five hundred dollars, and by imprisonment for not more than six months, and he shall be forever thereafter incapable of holding the office of postmaster. (Act of June 8, 1872.)

PRINTING.

HEADS OF DEPARTMENTS FORBIDDEN.

No head of any Executive Department, or of any bureau, branch, or office of the Government, shall cause to be printed, nor shall the Public Printer print, any document or matter except that which is authorized by law and necessary to the public business; and executive officers, before transmitting their annual reports, shall carefully examine the same and all accompanying documents, and exclude therefrom all matter, including engravings, maps, drawings, and illustrations, except such as they shall certify in their letters transmitting such reports are necessary and relate entirely to the transaction of the public business. (Act of January 12, 1895.)

PUBLIC PRINTER FORBIDDEN.

Hereafter no book or document not having to do with the ordinary business transactions of the Executive Departments shall be printed on the requisition of any Executive Department or unless the same shall have been expressly authorized by Congress. (Approved March 3, 1905).

The following are complete copies of papers, or statements of the substance of important papers concerning the case.

Exhibit No. 2.

REPORT ON THE BANK.

The report of the postal inspectors on the People's United States Bank was dated May 17th, 1905. It is approximately forty pages long, much of it closely written. Manifestly it could not be given in full on account of the space it would occupy.

Substantially the report amounts to the following: A brief history of Mr. E. G. Lewis' career for the last ten years, showing his conduct and character during that period; recites the various enterprises in which he had been engaged. (The tenor of this review of Lewis' career and business is such as to create a bad impression of him personally.) The report then goes on to review the advertisements of the bank and to charge Lewis with misrepresentations therein; makes liberal quotations from his writings and criticises them and passes judgment upon them for the benefit of the Department; concedes him to be an "efficient promoter, xxxxxx, a genius of more than inventive tact;" characterizes his holdings as "wild cat schemes;" says the charter of the bank was secured on a false statement; gives what purports to be the resources and liabilities of the bank and an analysis or criticism thereon; states that in one case the security for a fifty thousand dollar note might be worthless; that they (the inspectors) visited the bank and Lewis' Publishing Company on March 14th, 1905 and counted the cash on hand in each and listed credits of each in other banks; alleges that statements made by Lewis were, in their opinion, not true and that he was an embezzler of upwards of half a million; gives a detailed statement of the organization of the People's Bank and the number of shares subscribed for; explains the methods of advertising the bank and the increases of capital stock; makes much of the failure of Lewis to subscribe for stock, dollar for dollar; designates him as a "world astonisher;" gives the assets and liabilities of the Lewis Publishing Company; states that certain of the assets given do not exist; figures out that instead of having a

surplus, there is a deficit; states that Lewis devised and intended to devise a scheme or artifice to defraud the subscribers for capital stock in the bank by false representations, promises and exaggerations; that the expenses for maintaining the bank estimated by Lewis to be only 15 or 20 per cent of other banks were not true; that Lewis' estimate of the probable earnings of the bank was not true; that practically nothing he said or promised was true, concerning the bank or concerning the publishing company; that the Board of Directors was not selected in accordance with the laws of the state; charges the paying of false dividends at a time when the bank was practically insolvent; that Lewis misused the funds received for capital stock; admits that he told them that their conduct in his bank had "scared to death" his clerks and there was being circulated over the city a report that the bank was in a bad way and likely to go out of business, and that letters sent out by Inspector-in-Charge Fulton had cost heavy withdrawals of money, etc. The report prophesied that great and enormous frauds would continue to be perpetrated unless the "fraud-order" which they recommended, be issued against the People's Bank, its officers and agents as such in St. Louis, and against Lewis personally.

The report closes with the statement that as early as practicable, the evidence and facts will be submitted to the United States Attorney with a view to criminal prosecution for using the mails in furtherance of a scheme to defraud.

A supplemental report charges Lewis with making an untrue showing and states that he feared exposure of shortages or defalcations and expresses the belief that still further irregularities could be found and directly alleges that on the showing set out therein, Lewis was an embezzler.

NOTE.—It may be of interest to the reader to contemplate the filing of such a report upon the personal

and business conduct of any citizen in the secret files of any government department, without the person concerned knowing of its contents and allegations and having an opportunity to make answer in detail, for the protection of himself and his associates in business and those dependent upon him, even if the law authorized such an investigation into private affairs, which it does not.

NOTE—This report was the evidence "satisfactory to him" (the Postmaster General) to issue the fraud order on the bank and Lewis, but which Lewis was not allowed to see at the hearing June 16th, 1905.

Exhibit No. 3.

REPORT ON THE PUBLISHING COMPANY.

The report of the postal inspectors on the affairs of the Lewis Publishing Company was dated May 17th, 1905. It is twenty-one pages long and is the "exhaustive inquiry into the publication methods of the publishing company," spoken of in the pamphlet issued by the Department March 19th, 1907 and in the memorandum of the Third Assistant Postmaster General given out December 17th, 1907. It is too long to be given in full.

Substantially, this report gives a history of the Lewis Publishing Company from its inception, detailing the capitalization, proportion of preferred stock to common stock, the value thereof, the officers of the company, the publications issued by it, the circulation thereof, the location of the publishing plant, and the various possessions of the company and its assets and liabilities. The statement is made that its assets are not bona fide; that

certain of the alleged assets are theoretical; that instead of there being a surplus, there was a deficit; that the annual earnings and expenses of the company as stated by Lewis were untrue; gives the commission paid by the company to its agents for soliciting subscriptions; gives the annual total receipts from subscriptions; the estimated gross revenue from all sources; makes the statement that the company's estimates of business were not true; that the payment of dividends to stockholders was of doubtful validity; finds fault with the bookkeeping methods; states that certain expenses of the company were concealed; says that the condition of the business and manner of doing business, although not directly the subject of investigation, had such a bearing on the case, that they must be considered; makes the statement that without advertising patronage there would never be another magazine issued; that it is evident that the publications cannot be circulated without the revenue derived from advertising; that the cost of the magazines to the publishers was about fifty cents per annum although sold at ten cents per annum; that attention was given to whether the magazines were primarily designed for advertising purposes and for sale at a nominal rate; that the conclusion was that they were primarily designed for advertising purposes and for sale at a nominal rate; urges that the case be considered on broader grounds than usual because of "complications;" that "if the operating expense was $700,000 per annum and the subscription receipts but $85,000 then there can be no question but that the advertising revenue of $800,000 per annum becomes the principal business;" shows the other business concerns of Lewis advertised in the magazines; says that all, naming some ten of them, are under investigation; comments on each in a manner to discredit it; claims that the magazines are conducted as auxiliary to Lewis' other enterprises; speaks of the dividends or rather lack of dividends earned by the other institutions in which Lewis was interested; claims to have demonstrated the fraudulent nature of the bank advertised; says both state and federal statutes were violated; prophesies that the time

is not far distant when "even if not interfered with, the crash will surely come which will result in tremendous loss to the public;" states that Lewis used his magazines as a means of communicating his schemes to the public; that Lewis made false statements in them; puts construction upon Lewis' statements; argues that the Woman's Magazine is not actually admitted to the second class; that the character of the magazine was not truly represented in the application for entry; that the Department was deceived; that because of alleged false statements in the application for entry, Lewis was criminally liable; that the case would be presented to the District Attorney with a view to prosecution; that the law requiring hearing before rejection from the second class does not apply; recommends that the Woman's Magazine be forthwith rejected without a hearing; states that Lewis makes one hand wash the other with "painful regularity;" that the statement in the Woman's Magazine that it was entered in the second class was false; in short, that everything about the publishing business was dishonest and fraudulent; and recommends that the publisher be given a hearing on the right of the Woman's Farm Journal to continue at publishers' rates.

NOTES—The minutest details of the business affairs and methods of the publishing company were examined into by these postal inspectors; opinions were freely given on this or that phase of the subject; all were adverse or condemnatory. No publisher's private affairs were ever before so examined into to determine whether his publication was mailable at publishers' rates.

It is the duty of the Postmaster General to execute the law in relation to publishers' rates (second class mail). He may, in the discharge of that duty, require

any publisher to furnish evidence (proof) that his newspaper or magazine complies with the provisions of the statute; and he must decide upon the sufficiency of the proof offered; but he has no lawful authority to go into a publisher's establishment and examine into his private business affairs; ascertain whether the business be profitable; what the assets and liabilities; whether the books are kept rightly; whether the facilities for printing are as represented; whether there be too much money spent for this or for that; whether the publishing company has borrowed too much money; whether the claimed value of the mailing franchise and plant be theoretical or false; whether the books show a surplus or deficit; whether the earning power of the company is what it is alleged to be; whether the operating expenses are charged to proper accounts; and whether it was proper to pay a dividend to stockholders; and upon his approval or disapproval of these matters determine the question of postage rate on the publisher's magazine.

The correct position of the Postmaster General in administering the law is that of calling upon the publisher to prove that his magazine complies with the requirements of the statute, and is therefore entitled to be mailed at second class rates. He should consider only such evidence as will tend to establish the existence, or non-existence, in regard to the publication itself (the thing to be classified and carried in the mails), of the condi-

tions prescribed by law; and on behalf of the publisher only that evidence offered by him; he must prove his case. In this instance the Postmaster General's position was that of proving to himself, the judge of the matter, that the publications had *not* the right to be mailed; and in order to make a case he took into account matters which, under the law, may not properly enter into the question of mail rates at all; and to get before himself these irrelevant matters, he makes violent entry into the publisher's establishment, ransacks his private files, books and papers, and finding there conditions which he does not approve, decides after a consideration of them, that the magazines do not meet the statutory requirements and are therefore not entitled to be carried as second class matter. In other words, instead of the publisher making a case to him, he makes a case to himself, the publisher all the while protesting that he is not considering the evidence that he (the publisher) would, if permitted, submit.

This examination into the Lewis Publishing Company's business affairs is without precedent and without warrant of law; the authority to do so was assumed; nor was there warrant of law for the payment of money out of the Treasury for the time of the postal inspectors and the expense incurred on such an alleged postal matter,—it was not postal business. Even if the postal law authorized such an inquiry, the report of these inspectors was

valueless for an impartial judgment on the facts at the Department, because of its manifest hostility and bias.

This report is a fair sample of how postal inspectors "make a case." As a matter of truth, the Lewis Publishing Company's business system and methods are conceded to be among the very best, yet not an item was reported upon except in a condemnatory sense. The only proper use of postal inspectors is to gather the facts and report upon them, pro and con impartially, without opinions, for a fair and impartial judgment at the Department. The evil of the system lies in the "recommendation" which is required and the opinion which is permitted. So long as this is sanctioned, only facts and opinions to support the "recommendation" will be furnished, while facts and circumstances which do not support it will be omitted. This condition has bred into the Department itself a slavish following or "approval" of "recommendations" without real inquiry into situations which require that an unbiased and just judgment be passed. So it is that the postal inspectors, designed to be the eyes, ears and arms of the Department, have come to be the brains as well. It is small wonder that such reports must be regarded as "confidential." When in addition to this these inspectors are not restrained within the limits of the laws, the havoc which may be wrought is appalling to contemplate.

Exhibit No. 4.

TELEGRAM.

"CONCERTED ACTION" TELEGRAM.

CHIEF POSTOFFICE INSPECTOR,
Washington, D. C.

SAINT LOUIS, MAY 31st, 1905.

Secretary of State Swanger here to-day. Greatly exercised over Lewis matter. He has been criticized for failure to act, and recently ordered Lewis to restore the $400,000 withdrawn from bank, to cancel forged proxies, to account for all subscriptions received, to make good all material representations, and to select representative body of directors subject approval Secretary of State. Should money not be returned to-day Swanger may take charge of bank. At Secretary's request I have asked postmaster to withhold delivery of citation until four o'clock this afternoon sharp purpose of facilitating collection of shortage. Situation quite acute and account of its importance and because Woman's Magazine now receiving second class privileges largely by sufferance of Department is, and has been, the vehicle for promotion of bank and for Lewis schemes. I suggest concerted action part of Assistant Attorney and Third Assistant on reports of 16th instant. Please take up with proper officers.

FULTON,
Inspector-in-Charge.

NOTES—The foregoing is a copy of the telegram which seemed to confirm, or at least increase, the suspicion of there being a conspiracy on foot. This suspicion grew out of the unusual manner in which the case was handled.

The urging of "concerted action" by the two officials in the Department under whose administration the two

subjects reported upon would now be handled, was such an extraordinary proposition that it was bound to have the effect that it did have, especially with regard to the publications because the institution of the investigation was not directed by the proper officer of the Department nor was it carried on according to the general rules or by the field officers authorized by Congress for that work.

The evident purpose of this telegram was to picture to the officials in the Department such a deplorable condition of affairs in both the bank and publishing company that they would be influenced to "concerted action." This was, no doubt, on the theory that upon the circumstances reported, they might not consider so much the form or manner of doing as the end sought. In other words, if they could be convinced that Lewis was a very bad man and that his institutions were fraudulent and not properly managed, these circumstances would justify the course followed and the end sought, regardless of the procedure, means, law or practice.

It was on the afternoon of the same day that this telegram was sent, that the St. Louis Post-Dispatch published the substance of the postal inspectors' reports of May 17th on the bank and publishing company. Up to this time Lewis had received no official notice that the investigation of his bank or publishing business had disclosed anything to which the Department took exception. The citation noted in the telegram to appear at the

Department June 16th to defend his bank and himself against the issuance of a fraud order, was the first notice. Whether so designed or not, the publishing of the postal inspectors' "confidential" reports was a paving of the way in the public mind for what was to follow.

The word "forged" in the second sentence is probably an error in transmission or transcription. Of the many things charged against Lewis by the postal inspectors, the forging of proxies was not among them. The "16th instant" in the last line is also an error. The reports were dated the 17th.

Exhibit No. 5.

THIRD ASSISTANT DISAPPROVES "CONCERTED ACTION."

JUNE 8, 1905.

GENERAL CORTELYOU,

In this case of the "Woman's Magazine" and the "Woman's Farm Journal," of St. Louis, regarding which we have had some conferences, I beg to inform you that after you left the city Monday I decided, because of the circumstances, to cite the publisher to show cause why those two publications should not be excluded from the second class of mail matter. Separate citations were issued. The following is the essential paragraph of each:

> "That this publication comes within the following prohibition of the statute:
>
> 'Provided, however, that nothing herein contained shall be so construed as to admit to the second-class

rate regular publications designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates,' in that, first, it is primarily designed for advertising purposes; second, it is primarily designed to advertise the other business in which the stockholders and officers of the publishing company, and especially E. G. Lewis, are interested; third, it is primarily designed for free circulation or for circulation at nominal rates."

I doubt whether this action is in accordance with your temperate and judicial method of dealing with such matters, and it is not in keeping with the policy of caution and avoidance of immoderation which has heretofore prevailed in this Office and which has been generally successful in dealing with abuses of the second-class mailing privilege. I was prompted to take the action by the earnestness with which the charges against these publications are pressed in the inspectors' report, although an examination of that report discloses that a very great deal of the evidence on which it is based has no relevancy to the question of postage rates; and this view is concurred in by the special counsel for the Department on this class of cases. I was also influenced by the telegram of Inspector Fulton, dated May 31, a copy of which was furnished me, wherein he urged "concerted action part of Assistant Attorney and Third Assistant on reports of 16th instant." The hearing on the fraud order case before the Assistant Attorney-General is set for June 16; and the hearing on the right of the two publications to the second-class rates, before the Third Assistant Postmaster-General, is set for June 17.

I do not understand why the questions of the issuance of the fraud order, on the one hand, and the right of the publications to a particular classification, on the other hand, should be the subject of "concerted action:" but I did not wish to leave any obstacle in the way of the inspectors establishing the case which they appeared to conceive themselves able to establish.

I deemed it improper, however, to act upon their recommendation that the second-class privilege of the "Woman's Magazine"

be summarily taken away. That publication has been in fact accorded that privilege and is in the enjoyment of it in the customary manner. The exact form of the authority is, in law, immaterial, and I am advised by counsel that it would be contrary to the statute requiring hearings in such cases to annul the privilege in a summary manner. This, I have ascertained, is also the view of the office of the Assistant Attorney-General; and it is certainly in accordance with the dictates of justice for a summary denial of this privilege, as recommended, would mean the sudden destruction of a business valued at upwards of a million dollars and the rendering idle, if not useless, of a plant in which over $400,000 appears to have been invested. The act of March 3, 1901 was designed to prevent just such attempts to strike down, without warning, established enterprises, and I could not permit myself to be hurried beyond the law.

Owing to the unusual course of procedure in this case it may become necessary at the hearing on June 17 for me to have the inspectors present to furnish the evidence which they summarized in their report.

Respectfully,
(Signed) EDWIN C. MADDEN,
Third Assistant Postmaster-General.

NOTE:—The Postmaster General made no response to this letter.

Exhibit No. 6.

LETTER OF SECRETARY SWANGER.

SAINT LOUIS, JUNE 12, 1905.

R. M. FULTON,
Postoffice Inspector in Charge,
St. Louis, Mo.

DEAR SIR:—In reply to your letter of request of the 9th inst., I have the honor to inform you that this day the reorganization of the Board of Directors of the People's United States Bank was completed by the election of ex-Gov. Lon V. Stephens and W. F. Carter as members of said Board, vice A. P. Coakley and F. J. Cabot, resigned, which is approved by me; that since the reorganization of the Board was begun, four new members have been elected, all well known business men of St. Louis and all approved by my Department; that the names of the directors now are: E. G. Lewis, James F. Coyle, Theodore F. Meyer, Lon V. Stephens and W. F. Carter; that this Board is a substantial compliance with requirement No. 1 of my letter of demands on the Bank under date of June 6th, a copy of which I herewith inclose for your information and the information of your Department. The Board of Directors promise me that every other requirement made in said letter will be complied with at the earliest possible moment and I have confidence that this promise will be kept.

Mr. Cook of my department will take up the details of the affairs of the Bank with the new Board at once, and ascertain with them the exact conditions and proper remedies for any evils found. It is but fair to state that the stock of said bank is being issued to the respective subscribers with all diligence and as rapidly as can be done, and I am promised, will be completed within a few days.

Since I began the investigation, the capital stock has been

more fully paid and this department is informed that two million four hundred thousand dollars ($2,400,000) of the capital has been actually paid up, leaving only $100,000 yet to be paid by November 14, 1905, the time required by law.

I write you this letter and send you this exhibit that you may bring them before your Department, but ask that they be not published.

Assuring you of my willingness to at all times co-operate with your Department by furnishing any information we are permitted to give out regarding the condition of any institution under our charge, I have the honor to remain,

Yours very respectfully,

(Signed) JOHN E. SWANGER,
Secretary of State.

NOTES—The foregoing is a copy of a letter from the Secretary of State of Missouri, who is the official in charge of the administration of the state banking laws. It was written twelve days after the telegram of May 31st. The tenor of this letter and that of the telegram are markedly different. The letter does not indicate that the Secretary of State was greatly exercised over the "Lewis matter" or that there were any irregularities about which the state authorities were much concerned, however great the efforts to stir them up. It is to be remembered that the bank had been opened up but a short time and that it was scarcely to be expected that every detail originally planned for its permanent establishment would be perfected all at once. Apparently whatever fault the state authorities found on June 6th was satisfac-

torily adjusted six days later when this letter was written. It seems to give the bank a clean bill of health so far as the state is concerned.

No doubt this June 12th letter was before the Assistant Attorney General and the Postmaster General prior to the issuance of the fraud order July 6th but it is nowhere mentioned in any of the printed matter issued by the Department. It cannot be stated, however, that this omission was due to the fact that the letter rendered the issuance of a fraud order unjustifiable or at least very doubtful. Even if the fraud order could be "legally justified" as the pamphlet of July 9th stated, it would seem that it was not morally justified in the face of this letter.

Exhibit No. 7.

REPORT OF THIRD ASSISTANT ON JUNE 17 HEARING.

After the hearing June 17th, 1905, on the right of the Lewis magazines to publishers' rates, the case was reviewed by the Third Assistant Postmaster General, and a memorandum report thereof, from the standpoint of law and general practice in the Department, was sent to the Postmaster General July 8th. This review is fourteen pages long and for want of space, cannot be given here in full. It is, however, a most important document. The review is subdivided under four headings. The substance of the paper under the separate headings is as follows:

First, "Circumstances on which the cases arise."

Second, "The questions to be decided."

Third, "Conclusions of the Third Assistant Postmaster General."

Fourth, "Recommendation as to present action."

First,—Attention is called to the unusual manner in which the cases arise, and the extraordinary examination into the business affairs of the Publishing Company; recites the gravamen of the inspectors' report; shows that their reasoning to decide these magazines not entitled to publishers' rates on the ground that they are primarily designed for advertising purposes and for sale at a nominal rate, is fallacious; shows the consideration by them of elements not proper to enter into the question of mail rates; calls attention to the fact that the question of the fraud on the one hand and the question of postal rates on the other are in law entirely independent, and that each must be decided upon the facts respectively relevant; calls attention to the fact that the question of whether the magazines are entitled to publishers' rates depends upon compliance of the publications themselves with certain tests and standards established by law, and that the question is not governed or effected by the conduct of the publisher in other respects; shows that the reasoning of the inspectors that the magazines should be excluded on the ground that they were "aids in a scheme to defraud" has no relevancy to the question of postal rates.

Second,—Defines and enumerates the questions to be decided; gives the rules under which the Department was operated in the past and which, if the law is to govern, must continue; shows that "mail order" publications are not obnoxious to the law, and that practically all the recognized magazines are "mail order" publications; shows that the inspectors' report undertakes to decide the question of postage rates upon entirely new grounds which are untenable, if the tests and standards of the law are to be applied; calls attention to the reasoning of the inspectors, which, if followed, would exclude every newspaper and magazine from the second class; calls attention to the fact that the very

arguments against the Lewis magazines by the inspectors are the source of the magnificent service of the modern newspaper and the excellent quality of the popular magazine; gives an illustration of applying the rule invoked by the inspectors against the Lewis magazines to the "Evening Star" of Washington, D. C., and that the result would be its exclusion from publishers' rates; cites comparisons of numerous standard magazines with the Lewis magazines, all of which are named, and which, if the inspectors' reasoning applied, would mean their exclusion from the second-class; touches upon the question of the literary merit of the Lewis magazines, but calls attention to the fact that such may not be the basis of decision upon the question of rates; calls attention to the recognized standing of the Woman's Magazine with numerous other popular magazines; calls attention to the necessity, under the law, of considering the Lewis publications under exactly the same rules as applied to others; shows by comparison that the extent of advertising of the other enterprises of Lewis and those associated with him was not greater than is customary among magazine publishers; shows that the ground upon which the inspectors base their conclusions that the Lewis magazines are sold at a nominal subscription rate, is not tenable under modern conditions and the established practice of publishers.

Third,—Shows that under the facts stated in the inspectors' report, without an analysis of the circulation and evidence as to the lists of subscribers and other collateral aids customary to be considered, the Third Assistant Postmaster General would be unwarranted in holding, as the inspectors recommend, that either of the Lewis magazines was primarily designed for advertising purposes and for sale at a nominal rate; calls attention to the general practice and suggests that it be followed, and that publications in which there are flagrant irregularities be dealt with first.

Fourth,—Calls attention to the long continuance of the Lewis magazines in the second-class and to the general understanding

that the Department was to form definite rules for dealing with the class in which the Lewis magazines belong and to which rules they should have the same opportunity as others to conform, if, in fact, there be any irregularities to correct. States that the publisher had declared that he was willing to abide by any rule and would reduce the amount of advertising or increase the subscription price if necessary; calls attention to the seriousness of the matter and the importance of uniform administration and decisions which are sound in morals as well as in law, lest they bring destruction to legitimate enterprises and discredit upon the postal service; and states, finally, that the views expressed in the review have the concurrence of the counsel specially authorized by law for cases of this kind.

NOTE—It was in response to this communication that the Postmaster General, sent his letter of July 12th to the Third Assistant; and to which the latter responded under date of July 21, 1905. See pages 69 and 70.

Exhibit No. 8.

AGREEMENT OF DEPARTMENT TO FORMULATE AND PUBLISH RULES FOR GUIDANCE OF PUBLISHERS.

WASHINGTON, D. C., JULY 19TH, 1905.

MESSRS. BROMWELL & WEINSCHENK,
Counsel for Publishers of Mail-order Publications,

SIRS:—Careful consideration has been given to the proposition in your letter of June 29, addressed to the Third Assistant Postmaster General, in relation to the pending injunction proceedings brought in the Supreme Court of the District of Colum-

bia by The Sawyer Publishing Company, a Corporation, William H. Gannett, Publisher, a Corporation, The George W. Willis Publishing Company and Lane's List (Inc.) a Corporation, against the Postmaster General.

You are informed that the Department is unable to enter into any understanding or agreement with respect to the disposition of the pending cases which involves, or is conditional upon, any promise on its part whatsoever. If the publishers concerned desire, of their own motion, to dismiss the suits now pending against the Postmaster General, no objection will be interposed.

As a part of the general policy and practice of the Department and quite independent of the dismissal of the suits, it is and has been the intention of the Department to conduct an inquiry as to the present right of each of these publications now enjoying the second-class privilege under these injunctions, apart from the inquiries and hearings instituted prior to the injunction proceedings. Before conducting these inquiries (in which, of course, there will be a statutory hearing in respect to each publication) the Department will endeavor to formulate and publish in general terms such explanations of the construction placed upon the terms "designed primarily for advertising purposes, or for free circulation or for circulation at nominal rates" and "legitimate list of subscribers" as the nature of the subject will permit. But it must be distinctly understood that the Department will decide each case upon its merits as developed by the facts in evidence.

So far as may be consistent with this duty of determining the issues of fact in each case, rules will be framed which may be serviceable as guides to publishers, and there is no objection to allowing a reasonable time before the rigid enforcement of such rules will be insisted upon. You suggest that January 1st, 1906 would be a proper date, and in view of the circumstances the suggestion is considered a reasonable one.

From the foregoing it is not to be understood that the Department will fail to act before January 1 upon any specially

flagrant case of an abuse of the second-class privilege where the interests of the Government require prompt action. This, however, is not intended to imply that any one of the publications involved in the injunction proceedings is regarded as specially flagrant, but merely that the Department reserves entire liberty of action as to such cases.

Respectfully,

GEORGE B. CORTELYOU,
Postmaster General.

NOTE—The rules referred to in this letter were not published until December 16th, 1905, and it was provided in the notice of them that they should not take effect until April 1st, 1906.

Exhibit No. 9.

LETTER OF THIRD ASSISTANT CALLING ATTENTION TO VIOLATION OF AGREEMENT.

OCTOBER 14, 1905.

GENERAL CORTELYOU:

Within the last half hour I have received a special delivery letter from Mr. E. G. Lewis, publisher of the WOMAN'S MAGAZINE and the WOMAN'S FARM JOURNAL, of St. Louis. The following is a copy of the letter:

OCTOBER 12, 1905.

HON. EDWIN C. MADDEN,
Third Asst. P. M. Gen.,
Washington, D. C.

DEAR SIR:—At 6 P. M. last night (Oct. 11th) we received 2d class entry blanks from the P. M .of St. Louis with a demand that they be completely filled out and returned by this evening (Oct. 12th). Some of the questions asked would require weeks to give accurate answers, necessitating the sorting out of over a million original subscriptions and letters separating the club subscriptions from full subscriptions.

We have information that leads us to believe that false and perjured testimony has been given by a hired spy, gotten into our subscription rooms for that purpose, in regard to our subscriptions. I do not know the purpose of this sudden demand, but I have perfect faith that in *your* department no action will be permitted that savors of *persecution* while you are at the head of it, and I simply take the liberty of advising you of this matter so that we will get a square deal.

Respectfully,

(Signed) E. G. LEWIS.

I find from investigation that the Classification Division, where action of the kind complained of would originate, did not initiate this action. The postmaster must, therefore, be moving of his own volition or under the direction of some other officer.

The Lewis publications are of the mail-order type, many of which are alleged to be abuses of the second-class privilege because of being "designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates." A definite plan or policy for dealing with the abuses in this class has lately been determined upon as one of the features of the general reform of abuses of the second class of mail matter. It was the result of conferences between the publishers and the

Third Assistant Postmaster-General and yourself, one of the features of which was the promised publication of the circular regarding lists of subscribers, etc., which is now in your hands. The design of this circular is the enunciation of definite rules for dealing in a uniform manner with all questions of this kind.

There is nothing in the law prohibiting mail-order papers as such. Many of the recognized magazines are commonly charged to be of that type. The rules heretofore in effect have not furnished any satisfactory and effective guide capable of uniform and general application upon the question of primary design, free circulation, or circulation at nominal rates. Unless such rules and the practice upon them be general and uniform in their operation, they manifestly can not stand either the test of public criticism or judicial scrutiny.

Throughout my dealing with this class of cases, and for that matter with all others, it has been my aim to avoid the slightest appearance of persecution or precipitate action of any kind whatever by the singling out of one publisher for treatment in advance of those in his class. It is this policy which is the cornerstone of the reform; without it we could not have succeeded. As it is, there is no publisher able to sustain, with the smallest fragment of evidence, the charge that he has been unjustly treated, or treated in any different manner than all those in a similar situation. Temperate and judicial treatment must characterize this work in order to make it successful.

The action mentioned in Mr. Lewis' letter was not initiated by this Office to which, by the Postal Laws and Regulations, has been assigned the duty of dealing with the classification of mail matter. In my memorandum of July 8, last, relative to the prior action, which likewise was not initiated by this Office, I suggested that if you wished an investigation might be carried on here in harmony with the general practice. To this you assented in a memorandum dated July 12; and later in response to my verbal inquiry, you stated that you did not care to have the case taken up out of its natural order. In view of this, I am somewhat at a

loss to know how to answer Mr. Lewis' inquiry, and shall await your instructions.

Respectfully,

(Signed) EDWIN C. MADDEN,
Third Assistant Postmaster-General.

NOTE:—The Postmaster General made no response to this letter.

Exhibit No. 10.

HEARING APRIL 30TH AND MAY 1ST, 1906.

This exhibit consists of the record of the hearing of April 30th, and May 1st, 1906, on the question of excess mailings, alleged by the Postmaster at St. Louis to have taken place. Lewis was accompanied by Judge Sheperd Barclay, his counsel, James F. Coyle, H. L. Kramer, Walter B. Stevens and Representative Bartholdt. This document is ninety-one pages long, legal cap and is sufficient in itself to make at least two books of this size. Manifestly, it cannot be copied but it is important to any investigation or any student of the case. At the very outset, it makes clear that the hearing given Lewis on those dates was confined to the question of excess mailings and did not touch the question of whether the magazines had legitimate lists of subscribers or were designed for advertising purposes or for circulation at nominal rates. This matter is important because the Postmaster General's letters of March 4th to the Postmaster at St. Louis (one for each publication, exhibits No. 15 and 16) ruling them out of the second class, stated that his action was based upon a hearing given Lewis on April 30th and May 1st, as to whether his magazines had legitimate lists of subscribers and whether they were designed for advertising purposes and for circulation at nominal rates. The Postmaster General had been furnished with a complete copy of the record of this hearing under date of July 3rd, 1906.

Exhibit No. 11.

POSTMASTER-GENERAL'S ORDER TO DECEIVE LEWIS AS TO SECRET INQUISITION.

JUNE 23, 1906.

SIR:—Your memoranda of the 19th, 20th and 22nd inst., accompanied by letters addressed to you by Mr. E. G. Lewis, President of the Lewis Publishing Company, of Saint Louis, under dates of the 16th and 19th instants, and also by copies of correspondence between the Lewis Publishing Company and Mr. Fettis and the postmaster at Saint Louis, in regard to the investigation being made of the circulation of the Woman's Magazine and the Woman's Farm Journal, have been received and carefully considered. Mr. Lewis in his letter of the 16th instant complains that:

> "For some two weeks past, two clerks, working separately from the remainder of the clerks, and apparently under direct and continuous orders from the Postoffice Inspectors, have been conducting a separate and independent investigation into our matters, receiving their instructions and reporting continuously throughout the day from and to the local Postoffice Inspectors and Mr. Wyman, the Saint Louis Postmaster;"

and therein Mr. Lewis further says:

> "We are informed by your Mr. Fettis that these men are not under his jurisdiction nor are they acting for him as a part of the present force under his charge, but that their investigation is a separate and independent one so far as he is concerned."

Mr. Lewis in his letter of the 19th instant advises you that these clerks have now been increased to eight men.

I desire that Mr. Fettis be emphatically reminded that it is his duty to obey instructions and not to make comments thereon, particularly to persons whom he is investigating; that he shall, as was contemplated in my previous instructions, assume direction

of the clerks referrred to; that their investigation be made a part of the investigation being carried on by him; that the information so obtained be transmitted daily to you by Mr. Fettis, and I desire that it be by you promptly transmitted to me. Mr. Fettis should not diclose to Mr. Lewis the information thus obtained.

Very respectfully,

(Signed) GEO. B. CORTELYOU,
Postmaster-General.

HON. EDWIN C. MADDEN,
Third Assistant Postmaster-General.

NOTE—The number of men on this secret inquisition was later increased to 10 and then to 12.

Exhibit No. 12.

ORDER TO ABANDON ROUNDABOUT COURSE OF SENDING INFORMATION TO POSTMASTER.

JULY 6, 1906.

HON. E. C. MADDEN,
Third Assistant Postmaster-General.

SIR:—Referring to your memorandum of the 23rd ultimo, in relation to the case of the Woman's Magazine and the Woman's Farm Journal, of Saint Louis, and in which you advise me that you have instructed Mr. Fettis as follows:

> "Assume charge of clerks working under your agreement with postmaster. Do not change their duties. Cause them to report to you, but do not disclose information they obtain. Send results of their work daily to me."

I desire that this work shall form a part of our general in-

vestigation in the case of the two publications above referred to and that Mr. Fettis be instructed that hereafter, instead of following the present procedure, he is to deliver the slips daily to the postmaster at Saint Louis who has been instructed to report to me personally from time to time regarding them.

Very respectfully,

(Signed) GEO. B. CORTELYOU,
Postmaster-General.

Exhibit No. 13.

POSTMASTER'S LETTER WHICH BROUGHT REBUKE AND REPRIMAND.

ST. LOUIS, MO., APRIL 23rd, 1906.

HON. E. C. MADDEN,
Third Asst. Postmaster-General,
Washington, D. C.

SIR:—I am in receipt of your letter of the 19th instant, quoting largely from my letter to you of the 11th instant, informing me of an intended hearing in the matter of the Lewis Publishing Company on the 27th instant at Washington, and requesting me to present the evidence I have, or copies thereof, before that date.

In reply I beg leave to state that your request will be complied with so far as it is practicable to do so.

Before narrating all the facts, however, permit me to express my regret that you have not seen fit to comply with my request of the 11th instant for the papers submitted by Mr. Lewis challenging the correctness of the position taken by this office relative to the legitimacy of the subscription lists to these publications.

Had these papers been brought to my attention, I could submit a more intelligent and a briefer report; without them, it becomes necessary for me to take up a multitude of facts and cir-

cumstances, and to repeat facts already stated, many of which could doubtless be eliminated were I not blinded as to what particular issues Mr. Lewis has raised in his appeal.

The ramifications are so great, and the evidence so intricate and necessary of explanation in many particulars, and the time is so short that I do not hesitate to say that I fear that if this is to be the extent to which the Government is to be heard in this appeal, its interests will be inadequately represented; especially will this be true if Mr. Lewis is there in person with his profuse and specious explanations and representations, with nobody (acquainted with the facts) there to combat him.

Entering, therefore, upon a recital of the facts, I will state, that in the spring of 1905 an investigation by inspectors was made of the Lewis Publishing Company, and the People's United States Bank, both conducted by E. G. Lewis. From information since obtained, I learned that during the month of May, 1905, as a result of these investigations, revocation of second-class privileges granted the Woman's Magazine, and the Woman's Farm Journal, (published by E. G. Lewis) was recommended, and that at the same time a fraud order was recommended against the People's United States Bank, E. G. Lewis, its President, and its other officers. In June, 1905, a hearing was granted Mr. Lewis at Washington by the Assistant Attorney General for the Postoffice Department on the recommendation of a fraud order against the bank. On the same day a hearing was granted him by your office on the question of the revocation of his second-class privileges: Subsequently the Assistant Attorney General recommended to the Postmaster General that a fraud order be issued. On July 6th the Postmaster General, upon this recommendation, issued the said fraud order against Lewis and his bank, which fraud order is still standing. This bank-fraud was promoted, and made possible by use of the editorial columns of the Woman's Magazine and Woman's Farm Journal.

On December 1st, following, Lewis was indicted for devising a scheme to defraud in connection with the promotion of his

bank, and also for conspiracy with other officers of the Lewis Publishing Company to defraud the United States of large amounts of revenue, resulting from mailing copies of his publications at the pound rate, in excess of the number he was legally entitled to mail. These criminal cases are still pending, and will be brought to trial within a month or two. No action, so far as this office is advised, has been taken by you in connection with the recommendation and hearing on the matter of revoking Lewis' second-class privileges.

Since the fraud order was made effective, Lewis has vilified and maligned every officer in any way connected with the issuance of the fraud order against him, from the head of the Department down, including the Judge of the United States Court, and has placed all of them in the category of thieves, conspirators, dishonest officials, dupes or incompetents. In letters signed by Lewis and in articles published regularly in his publications since the fraud order was made effective, (all of which are teeming with anarchistic statements and charges of official corruption) your name alone, as an official, has received favorable comment. The effect of this on thousands of his credulous readers is appalling as is evidenced by the fact that not only I as postmaster but other officials of the Department here in St. Louis, have received many letters of vituperative condemnation for the course we have pursued in our efforts to protect the revenues of the Government.

About September 1st, last, information reached me that Mr. Lewis was systematically mailing his publications to "actual subscribers" in distinguishing wrappers: My employees were instructed to make a proper separation and notation of the September mailings of the Woman's Farm Journal and the September mailing of the October issue of the Woman's Magazine. These tests confirmed the information received as to the distinguishing wrappers. Beginning with the date of October 5, 1905, the mailings of the Woman's Farm Journal were again weighed and tested with the same confirmatory results. On October 13th, fifty-four

clerks from this office were detailed by me to visit the Lewis Publishing Company's plant, and call for and count their subscription lists. This was done in conjunction with the inspectors who are working on the case. All of the card records bearing names of subscribers were called for from Mr. Lewis, and when the count was completed the number of actual current subscribers to the Woman's Farm Journal was found to be 141,328, and to the Woman's Magazine, 539,901.

In the meantime the matter had been presented to the United States Attorney for this District, who advised the holding of all the illegitimate mailings of the October Woman's Farm Journal as evidence in the criminal case to be instituted by him.

Attempts to test the October mailings of the November issue of the Woman's Magazine by distinguishing wrappers were thwarted by Lewis' action in changing the system of wrapping, after our count of his subscription lists, and after his learning that the distinguishing system of wrappers had been discovered by us; but a test made from names selected systematically from his mailings of this issue of the Woman's Magazine, showed the percentage of illegitimate mailings to be practically the same as was found by the distinguishing system of wrappers used the month previous. Since that time, both publications have been mailed without system as to distinguishing wrappers, and with every apparent effort on Mr. Lewis' part to prevent the Department, if possible, from gathering further facts as to the exact number of his illegitimate mailings.

We have continued since that date testing his mailings by inquiries through postmasters, as to addresses shown on his publications, with the result that not to exceed fifty-five per cent (55%) of those mailed by Lewis as legitimate subscribers (not marked samples) are legitimate subscribers to the Woman's Magazine, and not to exceed fifty-six per cent (56%) are legitimate subscribers to the Woman's Farm Journal. These are general averages arrived at from the full five months' tests since the count.

From the tests made and evidence in our possession, it is shown that prior to the date of our count, Lewis was padding his mailing lists, by the use of names purchased for sample copy purposes, and not by the use of expired subscriptions. After the count, Lewis resorted largely to the use for padding purposes, of his expired subscription lists covering a period ranging from one month to three years, of a number about equal to his actual list, as shown by his subscription card records, not abandoning entirely the use of purchased sample-copy names. His attempt to legalize expired subscriptions, was made in face of standing notices carried in both of his publications reading as follows:

> "Discontinuances: Subscribers wishing the Woman's Magazine stopped at the expiration of their subscriptions need not notify us to that effect. We consider it their wish to have it discontinued if they do not renew promptly when notified that the time paid for has expired. x x x x x.
>
> If you find this paragraph marked, it means that your time is out, and that we will stop sending the magazine if not renewed within thirty days. We do not want to lose you, so please renew at once. x x x x x
>
> We discontinue sending papers when time paid for expires, unless renewed within thirty days."

Lewis' alleged "Citizens' Committee," in charge of Mr. L. B. Tebbetts, (a director in one of Mr. Lewis' enterprises,—the University-Heights Realty Company,) lays claim to the legitimacy of expired subscriptions under the amendment to section 436 Postal Laws, promulgated December 16, 1905 by your office, with this exception: their count, and the count made by this office, are practically alike.

As bearing on the question of the number of legitimate subscribers to the Woman's Magazine, Lewis made affidavit in this office on October 12, 1905, that he had over 800,000 "paid in advance subscribers." On March 22nd., 1905, some six months previous, when asked by the inspectors, he states in writing, that

he has in cash-paid-in-advance subscribers to the Woman's Magazine over one and one quarter million, and to the Woman's Farm Journal, over half a million. In addition to this, his September mailings of the October issue of the Woman's Magazine, (made from September 20 to September 30th, 1905) before my count was made, shows that he mailed but 651,155 copies of the Woman's Magazine as regular subscribers, and 464,055 as samples, and that on October 20th, just after the count, he mailed of the November issue of the Woman's Magazine as regular subscribers, 1,553,425 copies, and 96,310 as sample copies,—an alleged increase of 903,270 regular subscribers in one month and an alleged decrease of 377,745 sample copies in one month. In face of these indisputable facts, I cannot understand why any of his statements or explanations are accepted as truthful, or why he should be given the sufferance of second-class privileges another day.

Returning to the number granted Mr. Lewis by this office as legitimate subscribers, it should be stated, that under what appears to be the proper construction of the postal laws and the recent amendment of your office, a large proportion of this number are *not* legitimate subscribers according to this ruling. Mr. Lowenstein, (who with Mr. Walter B. Stevens, had charge of the count of Lewis' subscriptions made by the alleged "Citizens' Committee") admitted to us, that of the subscriptions counted, the class containing the largest number of subscribers was the *"Five Cent Clubs;"* the next largest, "Single Subscriptions;" and the next largest, "Six Cent Clubs" or "Renewals." From this it will be seen that by the reduction made by Lewis from the already nominal subscription price, these subscriptions are illegitimate. Further, as stated in my letter of the 11th instant, this number is unquestionably made up to a considerable extent of subscriptions obtained in contravention of the different rulings of your office. In one instance, practically one thousand subscriptions were sent in by a dealer in "face and tooth powder" for advertising purposes; the rate of subscription paid was five cents per annum. Another case is where over six hundred subscrip-

tions were obtained since January 1st, 1906, by so-called "clubbing arrangements with another newspaper," by which the Woman's Magazine is practically being sent gratis as a premium, the nominal rate of five cents per annum being charged. The entire list of these names and addresses is now in the hands of the prosecuting officers. Another illustrative case is where a medicine company in a southern city, advertised to send "free" the Woman's Magazine for one year for two cartons (or outside wrappers) taken from fifty-cent bottles of medicinal preparations: upon investigation, it developed that in return for advertising in the Woman's Magazine, Lewis supplied this company with four hundred yearly subscriptions to the Woman's Magazine free, the list of names being supplied by the drug company.

In addition to this some two hundred thousand names, taken from the sample lists, have been added by Lewis to his legitimate subscription lists, of persons who have never sought and paid for the publication. This has been done under the pretense that their subscription was paid out of a "special fund" donated by Lewis' friends, the names to be selected by Lewis; but even under this arrangement it is in evidence that the addressess did not receive the publications continuously or in consecutive months—in other words, the lists under this arrangement were changed monthly. These facts are all supported by evidence now in the hands of the prosecuting officer of the Government.

On the facts above outlined, and on other facts, all of which can be corroborated by evidence now in the hands of the prosecuting officer of the Government my action was based in demanding of Mr. Lewis additional postage on his publications, and my recommending to the Department the revocation of his second-class privileges on both publications, which recommendation I now desire to decidedly renew.

As a result of the second presentation of the Lewis case to the Grand Jury *this week,* and the continuous need of this evidence by the United States Attorney and the inspectors in the

preparation and conduct of the criminal case against Lewis, and because the prosecuting officers have expressed the inadvisability of forwarding the evidence or copies thereof at this time, and object to it, I regret to state that I find it impracticable to comply with your request to transmit the documentary evidence in this case.

In conclusion, permit me to state, that I have not acted in the premises named without full realization of my responsibilities, and am not insensible to the criticism and abuse which on the part of Lewis and his friends, has followed such action and which will continue so to do. As postmaster, however, I find it my duty to so act in order that the revenues of the Government already subjected to frauds perpetrated to the extent of some $75,000 to $100,000 in the past two years, might not be further defrauded to the extent of about $8,000 per month,—and it is my intention to continue the performance of this duty faithfully and fearlessly. In doing so it is my earnest hope that the officers at the head of the Bureau having jurisdiction over these abuses, and having the power to stop them, will give me the loyal and effective support that is due a Postmaster under such circumstances.

I desire to again express it as my conviction that not only should the additional postage collected from Mr. Lewis be retained by the Government, but that the second-class privilege granted the Woman's Magazine and the Woman's Farm Journal should be immediately revoked, because of the unquestionable illegitimacy of his subscription lists, and his gross abuse of second-class privileges in the use of these publications primarily for advertising purposes.

Respectfully,

(Signed) FRANK WYMAN,
Postmaster.

Exhibit No. 14.

REBUKE AND REPRIMAND TO POSTMASTER WYMAN.

WASHINGTON, D. C., APRIL 27, 1906.

HON. FRANK WYMAN,
Postmaster,
Saint Louis, Missouri.

DEAR SIR:—Your letter of April 23, a copy of which was also sent to the Postmaster-General, is received.

This is not a reply to such parts of your letter as are responsive to my letter of the 19th instant calling for information. There are certain portions of your letter, however, not concerned with the merits of the matter to which it relates, which, by reason of their unusual character, require special notice at this time.

You should understand that the second-class mailing privilege of any publication depends upon the facts pertaining to that publication as mailable matter, and the circumstance, if true, that a publisher has "vilified and maligned every officer in any way connected with the issuance of the fraud order against him, from the head of the Department down, including the Judge of the United States Court, and has placed all of them in the category of thieves, conspirators, dishonest officials, dupes or incompetents," or the circumstance that the statements made by him are anarchistic, or that any one official has not been the object of his displeasure, are matters wholly disconnected from his right to the second-class mailing privilege, and are matters which you should not permit to enter into the consideration which you as an official are required to give the case. If the publisher has libeled you or any other official there is a remedy at law.

It is especially important that an official charged with administering the postal laws and regulations uniformly should, in the discharge of his functions, be entirely unbiased by such circum-

stances as those upon which you dwell in your letter. Particularly should you endeavor to eliminate from your investigation and report upon the physical facts involved in the inquiry the supposed effect, however appalling in your judgment, of these statements upon the readers of the publication. Neither should you take into consideration as an official the letters of vituperative condemnation which you say you have received. While your protestation that you intend to continue to perform your duty faithfully and fearlessly is commendable, and you will have the support of this Bureau whenever your action is just, lawful and reasonable, you should not, by reason of the criticism and abuse to which you say you have been subjected, put yourself in the frame of mind of one suffering from delusions of persecution, nor should you permit the irritation, which as an individual you may naturally feel on that account, to drive you to imperil the success of administration by over-zealous or hysterical measures.

It is my duty to inform you that the cases of the publications mentioned in your letter are now with this Bureau. They involve two questions: First, whether the excess mailings alleged by you are, as a matter of fact, excess under the usual rules applicable to all publications; second, the right of the publications, as such, to the second-class mailing privilege.

The facts with respect to the fraud order against the People's United States Bank and the indictment of Mr. E. G. Lewis in connection with the promotion of that bank and for conspiracy to defraud the postal revenues, recited at length in your letter, are matters of which this Bureau has already official cognizance and which, in the request for information concerning your ruling as to excess copies, you were not called upon to recount at length. Neither is it your duty to pass judgment upon the extent to which the Government is to be heard in the appeal from your ruling, nor upon the question whether its interests will be adequately represented. Equally superfluous is your statement that "no action, so far as this office is advised, has been taken by you

in connection with the recommendation and hearing on the matter of revoking Lewis' second-class privileges." Whether action has been taken by me or not is something which I may be assumed to know, and your statement to that effect in an answer to a letter calling upon you for information can be accounted for only upon the view that you assume to sit in judgment upon the actions of this Bureau and to express contempt for them. You must know that conduct of this character will not be tolerated, and that a repetition of it will involve consequences more serious than the rebuke and reprimand which is now administered to you. This reprimand applies equally to other statements in your letter, among them the expression of your surprise that any of Mr. Lewis' statements or explanations are accepted as truthful, or that he should be given the sufferance of second-class privileges another day. The law has not delegated to you the power or authority to pass upon the second-class privilege of any publication, nor, so long as you remain a subordinate officer of this Department are you at liberty to review, or express your disapproval of, the decisions of your superiors.

It is unnecessary for the present purpose to refer to further evidence in your letter of the attitude of insubordination in which you place yourself.

It is hoped and expected that hereafter in the management of that part of the public business committed to your care you will confine yourself to the duties which you are called upon to perform, and in doing so will display sanity, moderation and dignity.

Respectfully,

(Signed) EDWIN C. MADDEN.

Third Assistant Postmaster-General.

Exhibit No. 15.

LETTER OF POSTMASTER-GENERAL EXCLUDING WOMAN'S MAGAZINE FROM THE MAILS AT SECOND-CLASS RATES.

March 4, 1907.

SIR:—In the case of the appeal of the publisher of the Woman's Magazine from your recommendation and action in the matter of demanding and collecting postage at the transient second-class rate on all copies of said publication mailed monthly in excess of its legitimate subscribers, which, as shown by the extended investigations of the Department and the count of October 13, 1905, aggregated 539,901, and in excess of a like number properly marked and sent as sample copies, you are informed that upon the hearing granted the publisher on April 30 and May 1, 1906, and a careful and thorough investigation by the Department, your recommendations are approved and your action sustained.

You will, therefore, remit to the Department in cancelled stamps attached to sheets of paper, the excess postage that has been collected by you, and also make demand on the publisher for the balance due the Government, under the law and the regulations of the Department, at the transient second-class rate of postage, upon all excess copies of the publication mailed on and after October 1, 1905.

In the matter of your recommendation that the Department deny the pending application, submitted August 22, 1902, for entry of this publication as second-class matter, you are informed that upon a hearing granted the publisher on the same dates (April 30 and May 1, 1906), and upon a careful and thorough investigation of all of the evidence by the Department, I find that the publication does not have a legitimate list of subscribers; that it is designed and published primarily for advertising purposes; and that it is being circulated at a nominal rate, contrary to the law and the regulations of the Department.

You will, therefore, refuse hereafter to accept for mailing at the second-class rate of postage copies of the said publications, and inform the publisher that his application for entry of the Woman's Magazine as second-class matter is denied.

Very respectfully,

(Signed) GEO. B. CORTELYOU,
Postmaster-General.

The Postmaster,
Saint Louis, Missouri.

Exhibit No. 16.

LETTER OF POSTMASTER-GENERAL EXCLUDING WOMAN'S FARM JOURNAL FROM THE MAILS AT SECOND-CLASS RATES.

March 4, 1907.

SIR:—In the case of the appeal of the publisher of the Woman's Farm Journal from your recommendation and action in the matter of demanding and collecting postage at the transient second-class rate on all copies of said publication mailed monthly in excess of its legitimate subscribers, which, as shown by the extended investigations of the Department and the count of October 13, 1905, aggregated 141,-328, and in excess of a like number properly marked and sent as sample copies, you are informed that upon the hearing granted the publisher on April 30 and May 1, 1906, and a careful and thorough investigation by the Department, your recommendations are approved and your action sustained.

You will, therefore, remit to the Department in cancelled stamps attached to sheets of paper, the excess postage that has been collected by you, and also make demand on

the publisher for the balance due the Government, under the law and the regulations of the Department, at the transient second-class rate of postage, upon all excess copies of the publication mailed on and after October 1, 1905.

In the matter of your recommendation that the Department revoke the order granting second-class mailing privilege to this publication, you are informed that upon a hearing granted the publisher on the same date (April 30 and May 1, 1906), and upon a careful and thorough investigation of all of the evidence by the Department, I find that the publication does not have a legitimate list of subscribers; that it is designed and published primarily for advertising purposes; and that it is being circulated at a nominal rate, contrary to the law and the regulations of the Department.

You will, therefore, refuse hereafter to accept for mailing at the second-class rate of postage copies of the said publication, and inform the publisher that the second-class mailing privilege heretofore extended the Woman's Farm Journal is withdrawn, and that the order granting the same is revoked.

Very respectfully,

(Signed) GEO. B. CORTELYOU,
Postmaster-General.

The Postmaster,
Saint Louis, Missouri.

Exhibit No. 17.

INSPECTOR SULLIVAN SAYS LEWIS MUST GO TO PENITENTIARY.

STATE OF MISSOURI }
COUNTY OF ST. LOUIS } ss:

J. A. Jacobsmeyer being duly sworn on his oath deposes as follows:

I am of legal age and a resident of the County of St. Louis, State of Missouri, having resided in said County during the last forty-two years; I am Assessor of Taxes for the said County of St. Louis, State of Missouri, which office I have held for two years last past. On or about the 29th day of October, 1907, while I was engaged in my duties as Tax Assessor at my office in the St. Louis County Court House at Clayton, a man entered my office and introduced himself to me as one William Sullivan, stating himself to be an United States Government Inspector, connected with the St. Louis, Missouri, Postoffice; said Sullivan further stated to me that he was engaged on the case of the United States Government against Edward G. Lewis, then pending in the United States Circuit Court, for alleged fraudulent use of the United States mails in promoting the People's U. S. Bank; and thereupon said Sullivan requested me to make certain examinations of the tax records of the County of St. Louis with reference to property owned by Edward G. Lewis in the years 1901, 1902, 1903 and 1904. In the course of conversation in reference to such examination of said tax records I asked the said William Sullivan: "What are you Inspectors trying to do with E. G. Lewis?" the said Sullivan thereupon replied in the following words: "We won't quit on Lewis until we have landed him in the penitentiary." Said Sullivan shortly after making this statement to me left my office. And further deponent saith not.

J. A. JACOBSMEYER.

Subscribed and sworn to before me this 14th day of Feb. 1908,

WILLIAM H. BARNES,
Notary Public within and for the County of
St. Louis, State of Missouri.

My Commission Expires, May 30th, 1908.

Exhibit No. 18.

LEWIS "HEARS" OF AN ATTORNEY OF THE "RIGHT KIND."

ROCHESTER, N. Y., OCT. 16th, 1905.

MR. E. G. LEWIS,
St. Louis, Mo.

DEAR MR. LEWIS:—I know that there are a great many always giving others advice as to who they should employ for an attorney, etc., when one is in trouble, etc. I do not want you to feel that I am trying to advise you in this matter. You doubtless have first-class attorneys but sometimes an attorney of the right kind can do a great deal more than another on a certain case. I have just employed an attorney in Chicago who I wish I had known of at the beginning as I am confident the results would have been different, and I would advise you to write this gentleman at once as I believe he would be of great benefit to you. His name is Leonard Goodwin and his address is 808 Ashland Block, Chicago, Ill. He has had a great deal of experience in mail cases. He is very reticent about accepting a case on account of the fact that his brother, Mr. Goodwin, is Asst. Attorney General at Washington, and of course, he would naturally not take a case unless he felt that they were doing business on the square.

Yours cordially,

(Signed) THOS. F. ADKIN.

NOTE—Mr. Lewis was subsequently advised that this letter was not actually written by Adkin, but that it was dictated by Goodwin himself in Adkin's office,—Adkin merely allowing the use of his stationery and his name as an accommodation to Goodwin. An attorney of the *right kind* to handle *a certain case* was, it appears, known to Mr. Goodwin.

Exhibit No. 19.

LEWIS TO GOODWIN.

UNIVERSITY CITY, ST. LOUIS, MO., OCT. 18, 1905.

HON. LEONARD GOODWIN,
808 Ashland Block, Chicago, Ill.

DEAR SIR:—I believe that a great wrong has been done through *misinformation* purposely given by others in the "fraud order" issued against The People's United States Bank and me personally. I believe that if the *truth* of the matter could reach the Dept. at Washington this wrong would be quickly righted. We are NOT asking any favors, just a "square deal." I would like to engage your services to come down here, make a careful and thorough investigation of the matter in ANY WAY YOU SEE FIT. If *you* find as the result of your own investigation that a great wrong *has* been committed then take the matter up for me. If you find that a great wrong has NOT been done us, DROP IT. You might call on A. L. Thomas of Lord & Thomas, Chicago, and J. B. Wilbur of the Royal Trust Co., before going into the matter at all.

Very truly,
(Signed) E. G. LEWIS.

Exhibit No. 20.

GOODWIN "HEARD" ABOUT THE FRAUD ORDER.

CHICAGO, OCTOBER 30th, 1905.

MR. E. G. LEWIS,
Care Lewis Publishing Company,
St. Louis, Mo.

DEAR SIR:—I have just returned from an extended business trip to the East, and found your favor of the 18th inst. await-

ing me. I have heard something about the matter to which you refer in your letter, and will be very willing to come to your city and make an investigation along the line suggested in your favor of the 18th inst. My fee for this investigation and trip will be $250.00 and my expenses. I am expecting a call to Michigan very soon, so that if the above arrangement is agreeable to you, I will be glad to hear from you as soon as possible.

Very truly yours,

(Signed) LEONARD GOODWIN.
A. B.

Exhibit No. 21.

GOODWIN GETS FEE FOR PRELIMINARY INVESTIGATION.

CHICAGO, Nov. 8th, 1905.

MR. E. G. LEWIS,
Care Lewis Publishing Co.,
St. Louis, Mo.

DEAR SIR:—Yours of the 6th inst., enclosing check for $250.00 just received. In my communication of recent date I asked you to give me some kind of an address at which you could receive mail, but in your favor of the 6th inst., above noted, you failed to do so, and I will therefore send this communication by express.

I will be unable to leave here before next Monday or Tuesday night, and if you will write me in the mean time, giving me some address at which you can be reached, and also giving me your street and number so that I may know where to find you when

I get there, I will either write you or wire you when to expect me.

Hoping this will be satisfactory, I remain,

Very truly yours,

(Signed) LEONARD GOODWIN.

NOTE—The writer could not find the Lewis letter of the 6th referred to in the above, nor his answer to this letter of November 8th.

Exhibit No. 22.

GOODWIN WILL TAKE CASE FOR $1000. AND "OTHER FEES AND CHARGES."

CHICAGO, Nov. 23, 1905.

MR. E. G. LEWIS,
St. Louis, Mo.,

DEAR MR. LEWIS:—Your favor of the 21st inst. at hand. I have not yet received the copy of "Banking by Mail" mentioned by you, nor have I received the savings banks you sent, but suppose they will arrive in due course. I note that you will be busy this week in transferring the stock and reorganizing the Lewis Publishing Co., and also in taking depositions. Next week being a holiday week, I do not know whether you would want me to come down on Sunday night or not, as I would want to return for Thanksgiving day. Will be ready, however, to leave here Sunday night, arriving at St. Louis Monday morning if I should hear from you to that effect; but would suggest that possibly no harm could arise by deferring action until Monday, the 4th day of December, at which time we could start in and continue uninterruptedly until we were through.

With regard to the fees would say that in a matter of this magnitude, *I should expect a retainer of $1,000; other fees and charges, if any, to be arranged to our mutual satisfaction. I consider that we are both reasonable and fair minded men and do not believe that you and I would have any dispute when we came to a final settlement. Of course, expenses are to be added.*

Please let me hear from you at your earliest convenience, so that I may arrange my matters accordingly.

Remember me to Judge Barclay and with kindest regards for yourself, I remain,

Very truly yours,
(Signed) LEONARD GOODWIN.

NOTE—The writer could not find the Lewis letter of 21st. above referred to. The italics in the second paragraph are supplied,—they are not in the original. Lewis made no reply to this $1000. retainer and "other fees and charges" letter.

Exhibit No. 23.

GOODWIN IMPATIENT.

BUFFALO, N. Y., DECEMBER 2d, 1905.

MR. E. G. LEWIS,
St. Louis, Mo.

DEAR MR. LEWIS:—I have not heard from you this week, as I expected to, and therefore do not know whether you expect me in St. Louis next Monday or not.

I was unexpectedly called to this city upon important business, but hope to be able to return to Chicago, either tomorrow night or Monday night, arriving in Chicago Monday or Tuesday morning.

Certain matters are now on foot which make it appear as though I would soon be requested to go to New York City upon an important matter which has been brewing for some time, so, if you expect me to come to St. Louis, it would seem advisable that you let me know at my Chicago address, at your earliest convenience, so that I may arrange other matters accordingly.

With kindest regards, I remain,

Very truly yours,

(Signed) LEONARD GOODWIN.

Exhibit No. 24.

LEWIS PUTS GOODWIN OFF.

UNIVERSITY CITY, ST. LOUIS, MO., DEC. 6TH, 1905.

MR. LEONARD GOODWIN,
Ashland Block,
Chicago, Ill.

MY DEAR MR. GOODWIN:—I have your letter of the 2nd; also talked with you over the 'phone but did not want to say much over the 'phone for a good many reasons.

As you have noticed by the paper, the Federal Grand Jury, at the instigation of the Inspectors, has brought in two indictments against me,—one for operating a scheme to defraud in the organization of the Bank and the other one for defrauding the government out of postage on the Magazine. In the former case, after ten months' work among sixty thousand people, they have succeeded in producing as witnesses, three women, two of whom we have no record of and the other one we find is the same woman whom they claimed, at the fraud order hearing, we had paid a fraudulent dividend of one cent to, her investment in the Bank being $1.00, subject to demand any time she chose to draw it out.

It is the first time we have had an opportunity to reply to the charges against us or to know what they were or to defend ourselves, and we welcome this trial and are perfectly willing to rest our case on the verdict of any twelve fair minded men. There is one peculiar thing, however, that has developed and that is this: I have reason to believe, from certain things that have come to me, that the local Inspectors, who are employing the most extraordinary methods, are aware of your visit here and if you are mixed up in this case, they will use it against us in a good many ways, and also against your brother. I will have more definite information on this subject in a few days, and will write you again more fully.

With best wishes,

Very truly yours,

(Signed) E. G. Lewis.

Exhibit No. 25.

GOODWIN COMES BACK.

Chicago, Dec. 18th, 1905.

Mr. E. G. Lewis,
St. Louis, Mo.

My Dear Mr. Lewis:—Yours of the 6th inst., is at hand, also your favors of November 21st and the 25th. I note in your letter of the 21st, that you are sending me under separate cover a copy of your book "Banking by Mail"; also that you were sending me three of the little savings banks by express. I received two of the savings banks, and gave them to my niece and nephew at Riverside and they were very much pleased with them. Please accept my thanks for your courtesy. I have not yet received the "Banking by Mail."

In your favor of the 25th I note that you have ordered check

sent me for my expenses, but the check has not yet been received. The amount was $34.65. I presume that in your hurry and confusion you have over-looked the matter.

Your favor of the 6th inst. was read with a great deal of interest. The Inspectors must be very hard up for a case against you to bring up an indictment upon such frivolous charges as those mentioned in your letter. I do not know how they became aware of my visit to you, but even if they were, I do not see as it would make any particular difference, as if I should be connected with you in the case, they must eventually find out anyhow. The last words of your letter were to the effect that you would have more definite information in a few days, and would write me again more fully, and I have been eagerly awaiting the promised letter.

With kind regards, I remain,

Very truly yours,
(Signed) LEONARD GOODWIN.
Per A. B.

Exhibit No. 26.

LEWIS PUTS GOODWIN OFF AGAIN AND DRAWS HIM OUT.

UNIVERSITY CITY, ST. LOUIS, MO., DECEMBER 26, 1905.

MR. LEONARD GOODWIN,
Ashland Blk.,
Chicago, Ill.

MY DEAR MR. GOODWIN:—I have your letter of the 18th, and enclosed I hand you check for $34.65, the balance of the amount of the bill, and for which please accept apologies that it was not sent before. I trust that the savings banks reached their destination safely and will bear good fruit in the near future.

Enclosed I hand you copy of the January issue of the Woman's Magazine which has a rather full statement of the indictment proceedings. They certainly were the limit. We notice that Mr. Cortelyou now adds three lines to his letter of explanation as to why the "fraud order" was issued to the effect that "you will note that an indictment has recently been issued against Mr. Lewis for operating a scheme to defraud in connection with the Bank." It certainly is getting to be the limit.

A Committee of a large number of the leading business men, bankers and publishers in St. Louis has organized to make a thorough and exhaustive investigation of the charges against the publications and against me, and to make a public statement in regard to their findings, as these outrageous proceedings have aroused the public spirit here in St. Louis to such an extent that even the publishers of the leading newspapers here have volunteered to act on this Committee. I believe when the report of this Committee comes out and is published broadcast that it will certainly have a startling effect as the men on the Committee are the highest standing men in the City.

My opinion in regard to the matter about which I wrote you was to the effect that your connections with the case would be used in a manner both injurious to yourself and brother, and to us. In fact, I am led to believe by the information that I get, that absolutely no stone will be left unturned or any trick unresorted to by the Department in this matter, as the Department itself is really on trial a great deal more than I am. On this account, I am rather afraid to bring you into the matter and I would like to hear from you fully as to how you feel about it.

With best wishes,

Very truly yours,

(Signed) E. G. Lewis.

Exhibit No. 27.

GOODWIN WON'T BE PUT OFF—THINKS "RESULTS" WOULD BE "SATISFACTORY."

CHICAGO, JAN. 2nd, 1906.

MR. E. G. LEWIS,
St. Louis, Mo.

DEAR MR. LEWIS:—Your favor of recent date enclosing $34.65 expense account to St. Louis is at hand, and I return you herewith my receipt for the same. I have read carefully and with a great deal of interest the account of the two indictments as set forth in the copy of the Woman's Magazine which you sent me. They must have been very hard up for something to bring against you to have found indictments upon such trivial and frivolous grounds.

In regard to my connection with the case—I am not desirous of in any way forcing myself upon you or in any manner urging my services upon you. I visited St. Louis at your request, and had a very pleasant interview with you and believed, at that time, that my engagement by you would be to our mutual advantage. I have not yet seen any good reason for changing my mind, and am still of the opinion that we could work together with most satisfactory results. If, however, you should think otherwise, we will consider the matter closed. It is "up to you" to give the matter your best thought and act accordingly. Whatever you may do be assured of my best wishes and my confidence that the final outcome will be as it should be, for "truth is mighty and will prevail."

Be assured further of my personal respect and kindest personal regards.

Very truly yours,
(Signed) LEONARD GOODWIN,
Per A. B.

NOTE—Lewis made no reply to this letter.

Exhibit No. 28.

GOODWIN COMES BACK. "SATISFIED" OF BEING OF "MATERIAL ASSISTANCE."

CHICAGO, JAN. 11th, 1906.

MR. E. G. LEWIS,
St. Louis, Mo.

DEAR MR. LEWIS:—There has been some funny mix up in your office in some way. During our correspondence I received from you a letter dated, 12-6-1905. I replied to this letter on the 18th of December; you replied to that on the 27th or the 28th, and I in turn replied to you again on the 2nd of this month. I received from you this morning a letter post marked Jan. 10th, 1906, and upon opening it was considerably surprised to find an exact duplicate of your letter of December, 6, 1905. I have compared the two letters and find them to be word for word and letter for letter exactly identical. For your information I am returning you herewith the letter and envelope which I just received this morning. *A careful examination of the envelope in the upper right hand corner of the back of the envelope shows evidence if its having been opened or attempted to be opened.* I will be glad to receive from you a reply to my letter of Jan. 2nd, and in

addition to what I say there will say that it does not appear to me that my connection with your case could in any manner prejudice you with the Department, and *I am satisfied that I could be of material assistance to you in the matter.* I do not look upon it entirely as a matter of business from the standpoint of the fees to be obtained, but it impresses me as a matter which will be of considerable importance and one in which a man might attain some enviable prominence.

I should be glad to be associated with you in the matter if you deem it wise or expedient.

Awaiting your answer to my letter of Jan. 2nd, and to this one, I remain,

Very truly yours,
(Signed) LEONARD GOODWIN,
Per A. B.

NOTE—The italics are supplied. They are not in the original.

Exhibit No. 29.

GOODWIN HANDLES POSTAL BUSINESS; AN INVESTIGATOR'S AFFIDAVIT.

STATE OF ILLINOIS }
County of Cook } ss.

Samuel Jones, being first duly sworn, deposes and says that he is the Assistant Superintendent of the Detective Agency and that on March 31st, 1906, in company with A. L. Andrews, he called upon Leonard S. Goodwin, attorney at law, at his office in the Ashland Block, Chicago, and presented him a card bearing the name of the Nervan Tablet Company, Fred G. Stone Secretary, and introduced Mr. Andrews under an assumed name as the General Manager of the Nervan Tablet

Company. Goodwin desired to know why we had come to him. We stated that we had been recommended to him by a Mr. Herman Jans of St. Louis. Mr. Goodwin admitted that he had known Mr. Jans and asked what he could do for us. Affiant then stated that our business, which is now located in Cincinnati and which formerly was located in Chicago, was a mail order business and that a friend of his who is close to the Postoffice Inspectors at Cincinnati, had informed him that his business was liable to be stopped as the Postoffice Department had numerous complaints against the Nervan Tablet Company and that his friend had been told by a Postoffice inspector that they would soon get around to investigate his business. Affiant then told Mr. Goodwin that he did not want to be put out of business and as he had been recommended to him as having exceptional knowledge regarding the postal laws had called upon him. Mr. Goodwin then said that if he was all right he would be glad to take up his case. He said that his fee would be $1,000.00 for the handling of this kind of a case and in addition to that, if he was expected to go to Cincinnati, that affiant would have to pay his expenses there, but that if he did not require him to go there the fee would be only $1,000.00. Mr. Goodwin asked affiant if he knew any of the judges or lawyers in Chicago and asked whom affiant could refer to. Mr. Goodwin stated he had been approached by a man the day before on this same proposition but that he did not know the man and the man could not give what he considered satisfactory references and that he, Goodwin, was not going to do business with people he did not know to be all right. Mr. Goodwin then said "If you are all right I can fix you up as I know just exactly what you want, as I have handled more of these cases than any one else in the country." Mr. Goodwin further stated "Notice those books up there?" pointing to several volumes of law books on the

stand, "You see those tickets stuck in there? Well, they all mean just such cases as this that I am taking care of." Mr. Goodwin then asked if affiant had any of the pills or tablets or any of the literature of the Nervan Tablet Company. Affiant then produced a box of Nervan Tablets that he had purchased at Van Schaak's Drug Company and gave them to Mr. Goodwin with one of the sample circulars that had been enclosed with the box of tablets and Mr. Andrews produced several circulars of the larger size, one of which he gave to Mr. Goodwin. Mr. Goodwin then examined the circulars and asked if the postoffice department had written affiant any letters in regard to this matter and also asked if the postoffice inspector had called upon our firm and if we had received any word from Washington regarding this matter. Affiant then told Mr. Goodwin that he had not received any notification or communication from any postoffice officials, that no postoffice inspector had ever called upon them and that we considered our business legitimate. Affiant also told Mr. Goodwin that his firm did not fear anything that might transpire from their present dealings, but that they had been informed that there were numerous old kicks and complaints at the postoffice. These old ones were the ones that they felt afraid off. Mr. Goodwin then said, "If I take care of you and fix up your literature, which I can do, you need not worry about old complaints. All you have to do if the inspector calls upon you regarding old complaints is to tell him that you are trying to do business honestly and that you may have made mistakes in the past and that you are not doing so now; that your mistakes were not intentional and that you were willing to adjust any complaints against your firm, and that will be all that is necessary. You need not worry about old complaints. It will be all right." Mr. Goodwin then wanted to know if it would be necessary for him to go to Cincinnati and stated that he would willingly

do so. Goodwin then stated, "The greatest trouble with my clients in these matters is that when I ask them to send me all the papers they do not do so and I always find it better to come to the home city and visit the office of the firm." Affiant then told Goodwin that if he felt he wanted to go to Cincinnati he would be glad to have him do so. Mr. Goodwin again impressed upon affiant that he would have to be paid his expenses in case he came to Cincinnati. Affiant then said "Mr. Goodwin, you understand what I want?" and Goodwin replied, "Yes, sir, I know just exactly what you want. You want me to fix up your literature and in fact your business so that the postoffice inspectors will not molest you, and I can do that all right." Affiant then talked with Goodwin about other mail order concerns and mentioned the Cash Buyers' Union, which firm is now in trouble with the postoffice inspectors. Affiant told Goodwin that he knew Mr. Kahn, the manager of this concern, and asked him if he could do anything for Mr. Kahn and he said he thought he could. Affiant then said that he would talk to Mr. Kahn and send him to him (Goodwin). Goodwin said he felt sure he could help Mr. Kahn, if he would call upon him. Mr. Goodwin during the conversation also mentioned that his brother was the Assistant Attorney General at Washington. Mr. Goodwin said that he would look up two or three of the references which affiant had given him and if he found he was all right he would call him up on the telephone at the Auditorium Annex Monday afternoon, at which place affiant informed Goodwin he was stopping.

Further Affiant saith not.

SAMUEL JONES.

Subscribed and sworn to before me this 9th day of April, A. D. 1906.

PAUL LARMER,
Notary Public.

NOTE—The two names used in this affidavit are fictitious. They are substituted for the actual names because, to disclose the real persons and their connection, would destroy their usefulness in their profession. In any investigation or trial, however, they can be produced to testify. "Andrews" made an affidavit to the same effect.

NOTE—Manifestly there is no way of knowing whether, if Lewis had engaged this attorney of the "right kind," the "results" would have been "satisfactory." Goodwin evidently was experienced and had faith in his own power and ability; but it is not possible for any one to say that the reason the Postmaster General did not lift the fraud order on the Bank was because Lewis had not engaged an attorney of the "right kind." The Postmaster General did lift the fraud order against Lewis personally on the petition of citizens of St. Louis.

NOTE—In the following no effort is made to quote or brief the exhibits. The purpose is simply to identify them in such a manner as to leave no room for mistake, on account of the tremendous volume of papers in the whole case. They are identified because of their extraordinary importance.

Exhibit No. 30.

THE POSTMASTER-GENERAL'S 40-PAGE LETTER OF FEBY. 13TH, 1907.

This exhibit is the letter of the Postmaster-General, dated February 13th, 1907 which reviews the decision and report of the Third Assistant Postmaster-General of February 7th, 1907. The Third Assistant Postmaster-General had decided on a basis of a count of the actual subscription orders on file in the Lewis establishment for the two magazines in question, by a specially authorized commission for that purpose. The decision was that Lewis had not, under the established rules of the Department, mailed excess copies but that as a matter of fact, if he had mailed many thousands more than he did mail, the rule of the Department would not have been violated. This was a rule, not a law. The statute itself placed no limit upon the number of copies a publisher may mail so long as his publication continues in the second-class. This rule has been explained heretofore in this book (see page 106). The Postmaster's letter of February 13th insisted that practically everything else but the real true evidence of the number of subscriptions be taken as a basis for determining the number of subscribers, such as the color of the wrapper used on the copies sent out, the fact that the rubber bands used on the subscription cards were rotten, that certain statements of employes and ex-employes were against Lewis, that Lewis was a bad man and that the Department had had trouble with him before, etc., etc. This letter is important to the case because it is the best of evidence of the evil of singling out the Lewis publications from the mass in the entire country to be dealt with by the Postmaster-General and his agents apart from the Bureau having charge of that subject and dealing with it day by day.

in a uniform manner. It is conclusive evidence of the Postmaster-General's entire ignorance of the subject and of the matters which he had a right as Postmaster-General to consider and decide, in determining the question of postage rates. It is forty pages long and manifestly cannot be quoted.

It is in this letter that the Postmaster General said: *"The contention of the Postmaster at St. Louis is not alone that the publisher has mailed sample copies, so marked, in excess of the number he was entitled to mail, but that he has mailed as going to subscribers, copies of the publication largely in excess of the number entitled by law to be so transmitted."*

Exhibit No. 31.

THE THIRD ASSISTANT'S LETTER OF 167 PAGES ANSWERING THE FEBY. 13 LETTER OF THE POSTMASTER-GENERAL.

This exhibit is the letter of the Third Assistant Postmaster-General, dated March 2nd, 1907 replying to the letter of February 13th. forty pages long from the Postmaster-General. On the same day, March 2nd, an advance summary of the letter was submitted to the Postmaster-General. This letter labors diligently to have him understand that the problem of excess copies was purely a numerical one,—a question of totals. Under the rule of the Department in question, if a publisher mailed a million copies, at least a half of them should be addressed to subscribers. Effort was made to impress upon the Postmaster-General that the color of the wrapper, quality of rubber bands, character of the publisher and anything else was not as good evidence of the number of subscribers as the written orders themselves, counted by an impartial commission. Effort is also made to

impress the Postmaster-General with the fact that in deciding the question of excess mailings, the Third Assisant did not consider the character of the publisher or the publications, or the color of the wrappers used, or the quality of the rubber bands or any other thing because none of it was evidence which could stand against a count of the actual subscription orders themselves. The February 13th letter from the Postmaster-General was designed to coerce the Third Assistant into a reversal of his decision of February 7th regardless of the findings of the commission sent out to count the subscription orders. Therefore, there is incorporated in that letter a vast amount of correspondence which might seem to be irrelevant but which was placed there for the reason that the Postmaster-General was under suspicion for his conduct in the case and the Third Assistant had determined that the record so far as his office was concerned, should be clean and complete.

This letter is 167 pages long. It contains the February 13th letter of the Postmaster-General, copied section by section and answered section by section. In itself it would make a book as large as this. Manifestly it could not be quoted in full but it and the summary mentioned are all important to any future consideration of the case.

Exhibit No. 32.

POSTMASTER'S ERRORS UNCORRECTED AS ALLEGED BY POSTMASTER-GENERAL MARCH 4TH, 1907.

This exhibit is an answer to that part of Postmaster General Cortelyou's letter of March 4th addressed to the Third Assistant Postmaster-General and which is the subject of the open letter which follows in the next few pages of this book.

The Postmaster-General declares that the Postmaster at St. Louis under date of August 31st, 1906 corrected the errors of 700,000 and 300,000 copies in his count against the Lewis magazines. The exhibit shows that he did not correct his errors, except in a very small part and that they remained substantially as made in his April 23rd letter. This exhibit is important to any further investigation or to any student of the subject. It is too long to be quoted in full, here. When this answer was sent in Mr. Cortelyou was, of course, out of the Postmaster-Generalship.

NOTE—In addition to the foregoing exhibits, identified in the Department files, there are many others of great importance to be considered in any investigation or study of the subject. The papers in the case are so numerous that to make a mere index of them would require a book the size of this. The report of the special commission sent out by the Third Assistant to count the subscription orders in the Lewis establishment is addressed to the Third Assistant Postmaster General. It is of special importance in any consideration of the case.

AN OPEN LETTER TO GEORGE B. CORTELYOU.

MR. GEORGE B. CORTELYOU,
Washington, D. C.

SIR:—On March 4th, 1907, while you were still Postmaster General and I was yet Third Assistant Postmaster General, you sent me a letter, ostensibly reviewing my official conduct in the so-called Lewis case.

The Lewis case was on in the Department for the entire two years of your administration. It did not originate in the Bureau of the Third Assistant where such postal matters were, in due course, handled; and it is the only case taken out of the regular channel to be treated in my whole experience. Twice, (in correspondence dated July 12th, '05 and April 14th, '06), you seemed to turn the case over to me. The occasion for the second turning over was the protest of the publisher against the treatment of your men, who were dealing with him independent of my Bureau. You gave me two matters to decide—one, whether the magazines were entitled to be mailed as second class matter, which meant a determination of whether they complied with the law in having legitimate lists of subscribers, and whether they were designed for advertising purposes, or for free cir-

culation, or for circulation at nominal rates; and another question—whether the publisher had mailed *excess* copies. From the nature of things, the last question had to be looked into and decided first, since on the results of that the main question largely depended. I decided only that one—namely, the excess question. You yourself decided the main question without waiting for my judgment. Your very last letter on the subject was that of March 4th above referred to.

Before I received that letter, you were out of the office of Postmaster General and in the office of Secretary of the Treasury. I could, therefore, make no response to you officially. Your letter on its face was designed to administer chastisement to me for refusing to see as you saw, think as you thought and act as you designed, in that case; but really its purpose was more to make it impossible for me, when I should leave the Department a few days later, to disclose what I knew about it. Fear that you might publish your letter was expected to operate as a stay upon me.

I resolved, therefore, this being a public matter, to answer you in a public way. This book, entitled "The U. S. Government's Shame," is my answer to your March 4th letter; and this open letter, published in the book, is to make specific answer to those matters in your letter which seem to call for notice. I quote in what follows all those statements which are of importance.

Space forbids giving your letter in full for it is fourteen pages long. You state that my letter of March 2nd, answering your letter of February 13th contains:—

"inconsistencies, evasions and statements flatly contradictory of each other run through the whole length of the communication, and the explanations and excuses offered in support of the position which you (I) have taken are so flimsy and so lacking in every element of common sense and reason that it is amazing that an officer of your (my) experience and assumed expert knowledge of the subject to which the communication relates would be willing to take responsibility for preparing and submitting it to his official superior. You (I) have obscured the situation by including in this voluminous communication a vast amount of irrelevant comment and numerous misleading and untrue statements. Your (my) object seems to be to place the Postmaster-General in a false position and to throw back upon him (you) the responsibility and discredit which attach to your (my) inexcusable mismanagement of this whole matter."

Answering this, I have the honor to deny that my Mar. 2nd letter contains any inconsistency whatever, evasion whatever or statement whatever which is flatly contradictory. That letter speaks for itself, and it contains and answers your letter of Feb'y 13—publish it. You should have given a bill of particulars. Such generalities can be answered only in a general way.

I also have the honor to deny that the explanations (I made no excuses at all) are flimsy. On the contrary, they are impregnable. I admit, however, that they may be lacking in the "element of common sense and reason,"

—the kind you were accustomed to; and that it may be amazing to you that any man of whom you were the official superior should have the courage of his own convictions as to right and wrong and decline to sell his honor for his position as you expected me to do. I did take entire responsibility for submiting to my superior officer, the letter of Mar. 2d; and it contained no untruth whatever. It was all too true; that, indeed, is one reason why you wrote the March 4th letter.

The so-called irrelevant comment was not really irrelevant. It had a purpose,—it was to make accessible that much evidence of the conspiracy which I believed existed and of which I believed you were the head. I did not, as you say, desire to place you as Postmaster General in a false position, but I did seek to place you in a correct position and that I succeeded, to your great embarrassment, is another reason why you wrote the Mar. 4th letter. Indeed, I aimed deliberately to throw upon you the responsibility which belonged with you,—nothing more.

I may properly challenge your right to charge me with "mismanagement of the whole matter" when I never managed it at all. The records show that it was managed by you and was in your hands for the entire time of your two years as Postmaster General. I freely admit mismanagement of that part of the case which you gave to me, when mismanagement consists of rendering an

honest decision in the face of your demand for a dishonest one.

I quote from your letter:

On page 49 of your memorandum, you say that "The Woman's Magazine" and "The Woman's Farm Journal" have never been regarded as positive abuses, and certainly not "specially flagrant ones." This may be your judgment as to the character of these publications and the methods by which they are circulated, but it certainly is not the judgment of the Postmaster-General or of the majority of the officers of the Postoffice Department who have had most intimately to do with this investigation. You have said heretofore that the business of no publisher has ever been subjected to such raking scrutiny as has that of the Lewis Publishing Company in respect of these two publications. You are not in position, then, to say with authority that there are other publishers who are more flagrantly abusing the second class privilege than is the Lewis Publishing Company; and your statement that such is true is mere assumption and represents one of the methods by which you would appear to excuse the position you have taken in respect to the publications named.

Answering this, I have to say again that I did not regard the Lewis magazines as "positive abuses." I had had eight years' experience in dealing intimately with that very subject throughout the country, and it would seem that I had as good a right, from the knowledge gained in that experience, to know what was and what was not an abuse, as you who never had any experience at all with any other case than that one. You say that

it is certainly not the judgment of the Postmaster General or of the officials of the Department who had most intimately to do with the investigation. I am quite aware of that. All of the officers who worked under you in that investigation were, of course, of your own judgment, but they, like yourself, never had any experience with any case except that one; and as they seemed to be definitely commissioned to find the Lewis magazines to be abuses, whether they were or not, they might be expected to report and to have a judgment upon the matter which would be in consonance with that of their superior. You say that I was not in a position to state with authority, that other publications were more flagrantly abusing the second class privilege than those of the Lewis Company and that my statement is "mere assumption." I may properly ask where the experience was gained upon which you base your judgment! I spoke from an extensive experience and positive knowledge,—it was you who spoke from assumption.

Again, if they were abuses and "specially flagrant" ones, why were they taken back into the mails at second class rates under your successor after you had put them out, the last act of your Postmaster Generalship?

I repeat here that the business of no other publisher of the United States has ever been subjected to such "raking scrutiny" into his private affairs as has the Lewis Publishing Company.

I quote again from your letter:

"You say, on page 29, that on April 14, 1906, I sent you instructions which for the first time placed this matter in your charge. The memorandum quoted below completely refutes this statement."

"JULY 12, 1905.

Memorandum for the Third Assistant Postmaster-General.

Case "Woman's Magazine" (C. D. No. 26575) and "Woman's Farm Journal" (C. D. No. 58208), published at Saint Louis, Missouri, by the Lewis Publishing Company.

Please have investigation made along the usual lines pursued by your Bureau to determine whether the Woman's Magazine and the Woman's Farm Journal are entitled to transmission at second class rates. It is desired that you will have this investigation completed as promptly as may be consistent with your general practice and will bring the results to my attention.

Until such investigation shall have been completed, it does not appear necessary to give the postmaster at Saint Louis the instruction which you suggest in memorandum of the 8th instant, as continuance of the present practice will accomplish the same result.

GEO. B. CORTELYOU,
Postmaster-General."

You explain that in conducting the inquiry into the publication methods of the Lewis Publishing Company in respect of "The Woman's Magazine" and "The Woman's Farm Journal" unusual methods have been used. If this be so, then the responsibility for those unusual methods rests upon you, for in the memorandum just quoted you are directed to "have investiga-

tion made along the usual lines pursued by your Bureau" and that it be "completed as promptly as may be consistent with your general practice." There was no reason whatever why you should not have proceeded with this matter strictly in accordance with your usual methods and practices, from and after July 12, 1905; nor is there any reason why the whole matter should not have been decided months ago. You have sought every possible excuse for postponing action. Repeatedly you have promised that the decision would be rendered at a certain time, but when that time arrived, have declared that it was impossible to submit it until a certain subsequent time. Only by the pressure upon you was I able to obtain your decision upon the question of excess mailings on the date of February 7. My memorandum, which was quite exhaustive, went to you on the evening of February 13; and you have consumed seventeen days in replying to that memorandum. Your reply would not yet have been made had I not peremptorily demanded it and insisted absolutely upon having it not later than the evening of March 2. But for that insistence it would not have been received until after my retirement from this office."

Answering this, I have to say, that when you wrote that down in your letter, you knew it was not true. Indeed, you did seem to place the case entirely in my hands by your July 12th letter and if you had left it there, it would have been dealt with in accordance with the law and the rules of practice which were generally applied; but you did not leave it in my hands, except on paper. I ask you to refer to Exhibit No. 9. It is my letter of October 14th, 1905, to you and it effectively exposes this untruth. The case was not in my hands at all and you know it. Your special men were working

on it all the while. My letter of October 14th contains the Lewis communication wherein he states that he believed false and perjured testimony by a hired spy gotten into his subscription rooms for the purpose, had been communicated to your representatives. I do not know whether that be so, and do not care. But my letter called your attention to the fact that the "investigation" your men were making was not authorized or directed by me. It also called your attention to your letter of July 12th, apparently placing the matter in my hands to be dealt with according to the general rules and that at the very time you were making this investigation the draft of the rules was in your hands. You had agreed with the publishers and myself (see exhibit No. 8) that such rules should be formulated and published and that we should not undertake to deal with the publications in that class until the rules had been published and the publishers were given an opportunity to conform to them. You had singled Lewis out for some purpose and my letter called your attention to the danger of doing so because it was necessary to maintain the Department's reputation for fairness and uniformity of administration of the law. I spoke with pride, pardonable pride, sir, that up to that time, covering seven years' experience with that very subject, no publisher had been able to show that he had been singled out or treated in any manner different from others in similar situations or that he had been treated

unjustly; and I was deciding questions of that nature hundreds of times in the course of every week. I concluded my letter with the statement that I would take no action on the Lewis complaint unless you gave instructions. You gave none. You made no response whatever to that letter. You remained silent and continued your silence for months and months afterward, although I was sending to you all of the many communications which were coming to me every week from the Postmaster, from Lewis and from others. There was, however, with each a letter of transmittal, *of record;* and each one asked for instructions, now that you had violated the provisions of your July 12 letter, which you quote, and the written promise to the publishers as well. You were cornered and you never said a word.

You say that there was no reason why I should not have proceeded with this matter strictly in accordance with my usual methods and practice. I suppose when you wrote that you never expected to be confronted with the facts and records in the case. You knew it was not true because you were all the while handling the case. It was never actually for a moment in my hands.

You appear to have overlooked, in writing the part of your letter which I last quote, the part quoted just previously. Your admission there by itself refutes your statement. Speaking of my judgment of the character of the Lewis magazines, you say,—*"that may be your*

(my) *judgment as to the character of these publications and the methods by which they are circulated, but it is certainly not the judgment of the Postmaster-General or of the majority of the officers of the Postoffice Department who have had most intimately to do with this investigation.*" What is that, sir, but an admission that you and your men were handling the case? What was it that you and your men were "*intimately*" doing with it, if it were, as you say, in my hands to be dealt with according to my "general practice?" That by itself contradicts the last quotation from your letter, but if this condemnation of yourself be not enough, I refer you to exhibits Nos. 11 and 12, which are your letters of June 23rd and July 6th, 1906. There can be no mistake about them. They are positive, undeniable proof that what I say is true and that what you say is untrue. And they are positive and undeniable proof that your letter of April 14th, 1906, in which you apparently again turn the whole case over to me, was merely another show on paper, for you did not then leave it with me. Lewis by that time had refused, on account of the conduct of your men, to let them into his establishment any more. Then, when he had admitted men representing me, you sent your men secretly under cover of mine to continue your work by stealth.

I quote again from your letter:

You have taken up these two questions in the inverse order, deciding that there have been no excess mailings by the company, but leaving undetermined the question whether the two publications are entitled to second class privileges. No reason is given for this change in the mode of procedure directed by my letter; and you knew that at this late date I could not wait for your finding upon the question of the second class privilege. You have discarded declarations of the president of the company made against his interest, the sworn statements of its employees and ex-employees, and evidence carefully and painstakingly gathered by honorable and experienced officers of the Post-office Department, acting under their official oaths, all of which would have been received as competent evidence in any court in the land. You state repeatedly that you have done this; that you went 'to the heart' of the matter, and 'found the facts.' You assume to have found the facts, and it was your duty to find them, but it is palpable that you have not done so."

Answering this, I have to say that the cases were taken up in the proper order. Indeed, the only order in which they could be taken up. I suggest that you re-read your letter of April 14th. You did not direct that they be taken up in any particular order. It is manifestly absurd to say that I should first have determined whether the publications were entitled to be classed as mailable matter of the second class at all and then subsequently decide that excess copies had been mailed. That would be getting the cart before the horse. How could there be excess mailings at second class rates of a publication which was not entitled to second class rates at all if the

decision had been that way? You did not give me a chance to decide as to the rights of the publications to continue in the second class. Furthermore, you found no fault, in your forty-page letter of criticisms dated February 13th, with this order of considering and deciding the questions. It is only at the last moment that you speak of it. I confess that I did not know at that time that you *"could not wait for your* (my) *finding upon the question of the second class privilege."*

You say I sought every possible excuse for postponing action. How could I act on a case with which you were dealing? It would have been presumptuous meddling on my part to act on a case being dealt with by my superior officer, especially when I had asked him dozens of times for instructions and he was silent. What you should have said is that I sought every possible excuse for getting out of the case. I did not want to have anything to do with it. I saw what a wretched botch you were making of it; and every piece of public business which turned up that gave me an excuse for appealing to you to be relieved of that part of the work which you turned over to me, on paper, I made use of. When the Congressional commission was appointed to consider the whole subject of publishers' rates with a view to enacting a new law, it was given out that there should be a suspension of the work of reforming the abuses of the

second class matter, pending the action of Congress, but even this did not lift your hand. You kept at it.

I was charged with responsibility of presenting to the Congressional commission the Department's case against existing laws and the necessary preparation consumed months. I thought it was another opportunity to get you to take the case from me, as you had only put it into my hands on paper, but you refused. For some reason you wanted a decision over my name on work that you were doing; and I knew that you were determined that decision should be averse to the publisher, right or wrong. That was why I made every possible excuse to get out of the case. I wanted none of the responsibility for the work. Indeed, you did exert "pressure" upon me but it did not succeed in its purpose.

You complain because I took seventeen days to respond to your letter of February 13th (40 pages.) My reply to that is, that it is easy to ask a mass of questions for the purpose of clouding a case, but not so easy to answer them, especially when one suspects the purpose of the man who is asking the questions, as I did. It was necessary that I review all of the papers and I took enough time to make the report straight. It speaks for itself. Nor was the time taken actually long under the circumstances,—your opinion to the contrary notwithstanding. It was your immoderate haste (you say that you "could not wait") to deal the blow which had been plan-

ned to the Publishing Company before you left the Department that made you think so.

Yes, I did disregard the testimony of the Publishing Company, all of it, and the sworn statements of its employees and ex-employees and the "evidence carefully and painstakingly gathered by honorable and experienced officers of the Postoffice Department," and I repeat that I went to the heart of the matter and that I found the facts. I took the word of no person,—publisher, Postmaster, inspectors or others. I went to the *core* of the matter,—*to the written orders of the subscribers themselves and counted them.* It took sixty-five persons three months and a half. But I got the truth—the *facts* and I decided accordingly,—that the Postmaster was wrong. Lewis violated no law or rule. You say that the "evidence" your honorable gentlemen found would be accepted in a court of law. My letter of Mar. 2nd proposed to you that their evidence and the findings of my commission be submitted to the court in the trial of Lewis and let the court decide who was right and who was wrong.

The balance of your letter is of no importance to be quoted verbatim, as the foregoing.

Later on (page 8) you say that I proposed "*to free the Lewis Publishing Company from blame for failure*

to keep proper and intelligible records." I did nothing of the kind. That was none of my business; if you had left the case with me in fact and not merely on paper, I should have required the Publishing Company to prove the existence of a legitimate list of subscribers for each magazine, as required by law, and the number on each; and I should have taken the evidence or proof submitted, and upon that should have decided the question before me. If the evidence or proof consisted of records which were unintelligible or unsatisfactory to me, the Publishing Company itself would have to take the responsibility for an adverse judgment. In other words the Company would have to prove its case, and the sufficiency of the proof would be for me to decide. I should not have attempted to investigate, pass judgment upon and regulate the keeping of the records themselves. That was the publisher's business. You decided the excess question and the question of the magazines being entitled to second class rates against the company because its business methods did not satisfy you. That is where you made your mistake, going outside the law, for the right to mail at publishers' rates depends upon no such considerations.

On page 9 you endeavor to shirk responsibility for having suspended the requirement of law (which you were without lawful power to do) for a whole class of

publications,—namely, the stock journals, allowing them to enjoy the publishers' cent a pound rate regardless of whether their lists were "legitimate" as required by law. You forbade my inquiry as to their compliance with the statute, and you seek to place responsibility for that act upon me. It was my coming to their cases in the course of my work which brought the delegation representing them to Washington. The delegation *saw* you. The suspension of the law and rules as applied to them followed. A re-reading of my letter of March 2nd and the files in the stock journal cases will convince you of how unjust and improper it was to seek to place responsibility for that unwarranted act upon me. It was entirely with you. You say *"there is a clear distinction to be drawn between the practices of these stock journals and those of the Lewis Publishing Company."* Yes, according to your idea of administration; but not according to law. The statute makes no "clear distinction". It applies to all the same.

However, this matter is not material to this case. I mentioned the circumstance in my report of Feb. 7th and in my letter of Mar. 2nd only to bring out the inequitable, unjust, immoral and unlawful conduct of your suspension of the requirements of law for some whom you favored, and the enforcement of the law rigorously and extraordinarily and unusually as to the Lewis maga-

zines which had as good a right to have some subscribers on their lists to which exception might be taken as the stock journals, or any others for that matter, had to have no actual subscribers at all. The law makes no "clear distinction" between publishers or publications. It was you who did that. You made haste after my decision of Feb. 7th to *lift* your "clear distinction"—your suspension of the law as to stock journals; your letter is dated Feb. 12th, five days after my report in the Lewis case.

On page 11 of your letter you say that because I did not attack the more flagrant abuses than I considered the Lewis magazines to be, if indeed they were abuses at all, that I "failed in my duty." When you wrote that you forgot that you had knocked the bottom out of the whole work of reforming the abuses in the second class of mail matter upon which I had been engaged for years and was making substantial progress, (and had been successful), by suspending the requirements of the law as to legitimate lists of subscribers for stock journals, allowing them to enjoy the benefits of the law without complying with its provisions. In the same order you suspended my prohibition in the rules I had framed and which you once approved, against bulk political subscriptions for partisan purposes, thus compelling the government to bear a share of the expense of political campaigns. That was a knock-out blow to the reform.

And briefly stating the whole situation for me under your administration, I have to say that the Postal Laws in relation to newspapers and periodicals stood upon the statute books from the beginning, with practically no real effort to enforce their provisions or restrictions. The cheap rates were a great inducement to secure the privilege for all manner of printed matter, under pretended compliance with the provisions of the statute. It was estimated that the Government was losing millions annually, because of the manifest abuses which the Department permitted. A great scandal grew up. Postmasters General had been asking Congress for legislation to correct the evils. Then I came and undertook the work of correction with the power I found in existing law. I was given a free hand. No Postmaster General, prior to you, (there were three of them) interfered in the least. They relied upon my experience and training for the work, and supported me in it. I found that tremendous interests had grown up upon the faith of the Department having done its whole duty in the past, when it had not. The morals and equities of the situation were with the publishers, if the law was not. They had rights which must be respected. So I aimed to be temperate, to avoid extremes, and the error into which reformers usually fall of not seeing that there are two sides to a question. So far as I went I had no favorites, I knew no friends. All publishers looked alike, but I

aimed to do nothing which the law and sound morals did not fully justify, looking at it from both sides. At each step taken I sought a judicial decision as to the correctness of my interpretation, so as to bring out of the work a body of law, judicially determined for all time. There were many test cases and in all but one, involving two publications, my interpretation was sustained. The more flagrant abuses were eliminated. The scandal had ceased.

Then you came into the Postmaster Generalship and the granting of favors commenced again. That put an end to my work. Publishers came to know the value of fawning upon you. Even after we had won a test case in the courts you gave the Government interests away again. Stability was gone. During the two years of your administration there was much justifiable crititism of administration; and it was because of the situation which you had created; but I was held responsible for what was due to your methods, while you remained in the background.

In the case of the coupon order you made my work ridiculous. After approving my order eliminating them, based upon an opinion of the Assistant Attorney General, that they could not lawfully be carried as Second Class matter, some one whom the rule affected *saw* you. Then you, unknown to me, *saw* the Assistant Attorney General; then there was another opinion. This time

coupons were lawful to be carried. If I had known that the Assistant Attorney General would have given an opinion either way, I should never have issued the order. On this second opinion I suspended the order; but it stood long enough to give publishers much needless inconvenience and cause them loss of advertising patronage, which would have been avoided if you had gotten the Assistant Attorney General's office to change the opinion before the order was issued at all, as should have been done.

It was when I came to a full realization of the situation for me that I proposed a Congressional Commission (I drew the law which Congress passed, creating it) to make inquiry into the subject and enact a new and modern statute. Then you agreed and it was given out that the work of the reform would be suspended until the Congressional Commission reported, but the reason that I proposed that Commission and the suspension of the work was that under your methods the work could no longer be carried on impartially, equitably and honestly. Even after the suspension you kept at work on the Lewis case. Your letter of February 1, 1907, lifting the suspension and directing a resumption of the reform work on new lines was, of course, merely to justify, as much as possible, what you had already done and intended still to do in that case.

If, therefore, I "failed in my duty," because of not

attacking what you denounce as abuses, it could be only since February 12th, '07, for you admit in that letter that the work was suspended until then. In your 40 page letter of February 13th (the day after) you say that the work of investigating alleged abuses, which was now to be taken up again, should be conducted along the lines of your work on the Lewis case, which meant a revolution in methods. As that case occupied your attention for two years and my attention for many months, not to speak of the army of men engaged upon it, it would seem that I may rest easy in my conscience upon the score of having "failed in my duty," if sane conduct of the public business is to be considered. Even if not, under the new methods to be employed, little, if anything, could have been accomplished between February 12th, '07, when you decided to resume the work, and March 4th, '07, when you wrote that reproach. Again as the Lewis magazines are both back in their old place in the mails under the administration of your successor, it would seem that my failure during those twenty days to enter upon new fields under your plan of working ought to be commended, for not only all of your two years' work, but all of my work, and all the rest of the work on the Lewis case, and the cost of it all, appears to have been wasted.

On page 11, you say, quoting a statement from my

Mar. 2nd letter: "The point of your (my) reiterated remark that *the Department is not clean,* is easy to understand." I never expected you, sir, to be so frank.

You say (page 13), "*to accord the privilege to the publishers of sending such copies* (excess copies) *at the transient second class rate* (one cent for each four ounces or fraction thereof) *is a distinct concession.*"

As the law gives the publisher the right to mail at one cent a pound without limit, so long as his publication continues in the second class, I am indeed unable to understand the nature of the "distinct concession." I fear that this is another "clear distinction"—for the Lewis case. But the special commission found and reported that Lewis did not mail excess copies as the Postmaster at St. Louis claimed. It was you who overruled their finding of the facts, after three and one half months' work—65 persons. Of course a decision in accordance with the facts would have thrown down the fraudulent indictment of Lewis and the others for defrauding the government of postage—for want of "evidence;" the kind "the attorney will need."

Further down on page 13, you say: "*Of course you* (I) *knew that in all of the dealings of the Postoffice Department with the Lewis case my* (your) *attitude has*

been that absolute impartiality should be shown and that the Company should be treated with all fairness and in strict accordance with justice and right."

To that declaration, sir, I can make no adequate answer; words fail. You have the best of me.

The last item of importance in your letter is on page 14. You say that the Postmaster corrected under date of Aug. 31st his errors in his letter of Apr. 23rd of 700,000 and 300,000 copies in his count against Lewis. My answer to this is of record in the Department (see Exhibit No. 32). It was sent to the Postmaster General on March 5th after you were out of office. It shows that the Postmaster did *not* correct his errors, except in a small part. Substantially they stand unchanged. But whether he did or did not made no difference. I have repeatedly said that I did not take his figures. I found the facts for myself.

There is nothing further in your letter requiring notice and I have quoted verbatim all those parts of it where you intended to reflect upon me, and I publish this answer in this book in order that all who wish may study up on your conduct and on my conduct in the Department and decide each for himself whether you were honest or dishonest, and whether I was honest or dis-

honest. I do not ask any one to take my word for anything. I rely upon the records.

Answering now your whole letter of March 4th I have the honor to say that it is false and untrue from beginning to end, not only in the allegations it makes, but in its sophistical and specious arguments. There is not a single statement in it to which there is not an adequate answer to establish its falsity.

My dear sir, you wrote too many letters; in writing one you forgot what you said in another, and sometimes in the very same letter (I have pointed out an instance of it) what you wrote in one paragraph impeached the truth of what you wrote in another.

In conclusion, although it may not be properly called for in this open letter, I have to say that it is my deliberate judgment, based upon an experience of fifteen years in the postal service, eight years administering the subject of second class mail matter in the Department, without interference by any Postmaster General but yourself that more law was violated, not only in its plain terms but in its spirit and purpose; that there was more wanton destruction of property; more unwarranted assumption of power; more meddling with private affairs; more immorality and more falsehood; more wanton waste of government

funds—probably half a million—for an unlawful purpose, in this Lewis case, than ever before in the history of the government. I say also that it is my belief that it is all, from first to last, chargeable to you, and that you ought to have been impeached for incompetency or malpractice, or both.

Respectfully,

EDWIN C. MADDEN.

NOTE—It is probably true that Postmaster General Cortelyou did not, himself, write the Mar. 4th letter, to which the foregoing is a reply, and that he did not himself write a single letter in the Lewis case. They were all, or nearly all, prepared for his signature in Assistant Attorney General Goodwin's office or in the office of the Chief Postoffice Inspector and by persons in those offices who were concerned in the conspiracy, if there were one.

OCT 5 1916

ILLUSTRATIONS

The following pages contain views of the plant of the Lewis Publishing Company, interior and exterior; and the proposed home of the People's United States Bank, and that building as completed, now known as Plant No. 2. These views are given in order that the reader may have a more comprehensive knowledge of the tribute to unscrupulousness and incompetency in public office.

The People's U. S. Bank Building as it was to have been on completion, Bank destroyed by fraud order before completion. Now the Printing and Publishing Plant of the Woman's National Daily.

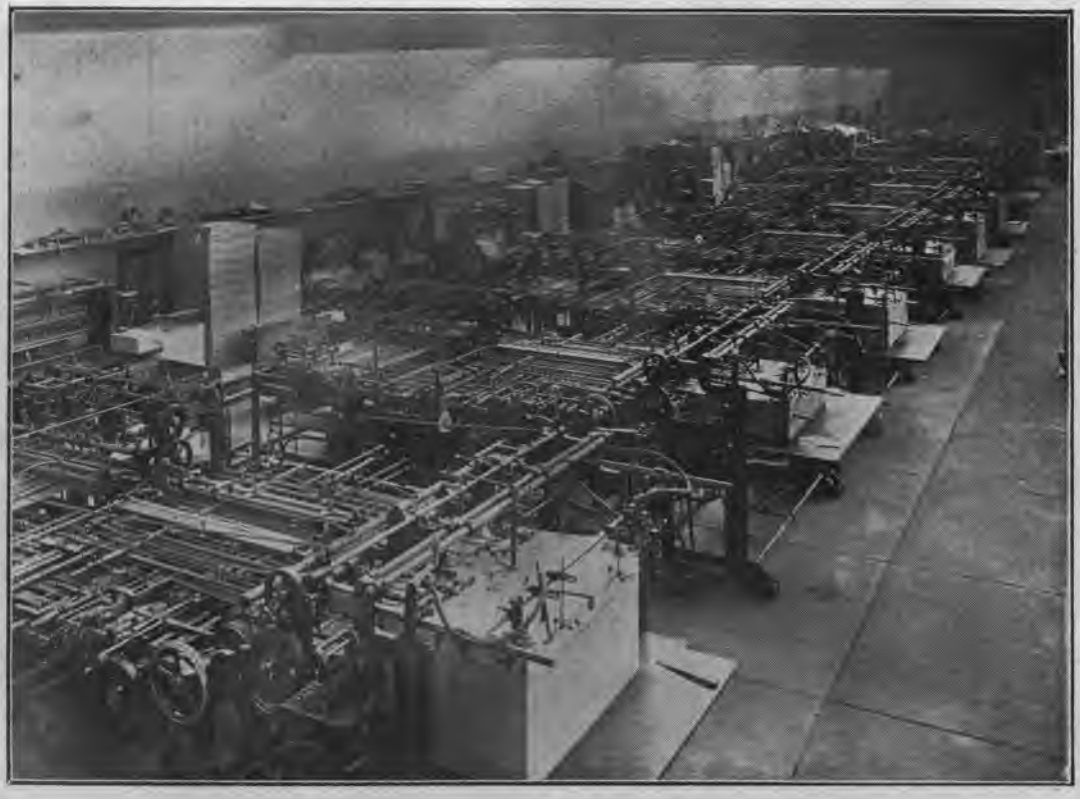
The Woman's National Daily Building, concrete faced with polished white marble. Size 200 feet x 85 x 60 feet.

The great Manganese Vault of the People's U. S. Bank, now lying boxed up on the lawn.

Office Building and Magazine Printing Plant of The Lewis Publishing Company. Office Building cut stone and terra cotta, 135 x 85 feet. Printing Plant at lower right, 300 x 100 feet, resembles huge conservatory, connects with Office Building by underground passage. Total cost over half a million.

Employes of The Lewis Pub. Co. grouped on the Front Steps of the Office Building.

Sectional view of Pressroom of The Magazine plant. Machinery alone valued at quarter million dollars.



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